

CHAPTER 1

OVERVIEW OF THE STUDY

A. Introduction /Rationale

Human rights aspirations date back from ancient times, and are as old as human society itself resulting from people's struggle against all forms of injustices.¹ These aspirations represent the dignity to which every human being is entitled to. Over time the gaps between these human rights aspirations and reality became apparent. In order to mend these gaps, the UN Family promulgated the International Human Rights Framework consisting of declarations, Covenants and Conventions in order to guide states and governments in their pursuit of development.

One gap in human society is massive poverty that persists and subsists both at the global and country levels. Kofi Anan who instructed the entire UN organization in 1997 to "mainstream" human rights into all its programs said that:

*Human rights are as fundamental to the poor as to the rich, and their protection is as important to the security and prosperity of the developed world as it is to that of the developing world. It would be a mistake to treat human rights as though there were a trade-off to be made between human rights and such goals as security or development. We only weaken our hand in fighting the horrors of extreme poverty or terrorism if, in our efforts to do so, we deny the very human rights that these scourges take away from citizens. Strategies based on the protection of human rights are vital for both our moral standing and the practical effectiveness of our actions.*²

The Philippine commitments to human rights are explicitly expressed in its ratification of among others, the eight (8) core International Human Rights Treaties. These treaties are International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention Against Torture (CAT), Convention on the Rights of the Child (CRC), Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), Convention on the Rights of Migrant Workers (CMW) and Convention Against Racial Discrimination (CERD) and Convention on the Rights of Disabled Persons (CRPD)

These carry with it the State obligation to comply with the provisions of these treaties. However, there is a wide divide between committing to and substantially complying with human rights standards under these treaties, except for reportorial compliance. Over the past three years since the revitalization of the Presidential Human Rights Committee

(PHRC) in 2006, the Philippines as of July 2008 has updated its periodic reports under these treaties. Its 3rd report for the ICCPR has been delayed but it will be submitted by end of year 2009. There have been five (5) considerations of these Philippine Reports by the respective international monitoring committees³. And among their observations were, among others, the lack of implementation of human rights standards in the domestic legislations, and the inadequacy of government mechanisms, programs and remedies to improve the human rights situation in the country.

The introduction of the HRBA worldwide is one resolute attempt to bridge the divide between commitment to and compliance with the international human rights treaties at the domestic level. As envisioned by the United Nations, HRBA capacitates not only the States, but also the civil society organizations to implement human rights in order to improve the quality of life of the people worldwide especially those in poverty situation.

The HRBA is also seen as an attempt to “de-mystify” human rights and pragmatically engage development institutions to the realities of poverty powerlessness, inequities, and social exclusion affecting the poor, disadvantaged and marginal sectors both at the international and country levels.

B. Problem Statement

The 2007 Universal Periodic Review on the Philippine Human Rights Situation has raised serious concerns on the compliance of the country with its obligations under the International Human Rights Treaties. The Philippines is a State party to eight (8) core International Human Rights Treaties, among others. These treaties are International Covenant on Civil and Political Rights (1966) International Covenant on Economic, Social and Cultural Rights (1966), Convention Against Torture (1984), Convention on the Rights of the Child (1989), Convention on the Elimination of all Forms of Discrimination Against Women (1979), Convention on the Rights of Migrant Workers (1990) and Convention Against Racial Discrimination (1965) and Convention on the Rights of Disabled Persons (2009).⁴ The various treaty bodies monitoring Philippine compliance had explicitly expressed common observations in their concluding recommendations the need to observe human rights standards and commitments under the treaties towards improving conditions of poverty and human rights situation in the country.⁵

HRBA was introduced in the country to complement the compliance approach. However, understanding HRBA and how it is applied in the country is another serious concern. Many practitioners and advocates of the approach have shared the lack of national and local capacities that would support its application.

Running on its 8th years of application in the country, HRBA has remained a mystery to most. There is a general lack of common understanding of HRBA more concretely beyond theories and concepts. Since HRBA was introduced in the Philippines in 2002, advocates and practitioners of the approach have been grappling with concrete proofs on

how HRBA is being done in specific situations or processes of development or governance.

In addition to the very limited number of HRBA experts who would be in a position to propagate its use in the country, there is general lack of coherent documentation of good practices of HRBA in the Philippines. There is also dearth of dissemination of HRBA initiatives among key practitioners, which made the use of the approach less institutionalized.

Most practitioners of HRBA have expressed the lack of more demonstrable conceptual and operational frameworks and indicators that would exemplify the application of HRBA to enhance the competencies of HRBA advocates and practitioners in both government and non-government institutions.

The approach has not been institutionalized at the operation level. The Commission on Human Rights of the Philippines (CHRP) has, time and again, openly expressed in the various orientations and trainings it conducted on the approach, the need for political will of vital institutions of government to advance its practice and application with or without development assistance

In sum, even if the advocacy on the HRBA has been achieved at the international level, much is yet to be desired in terms of convincing key sectors of Philippine society to do HRBA at the policy, program and operation levels in the context of development and governance. The practice of HRBA in the country has done minimal progress as most of the initiatives to implement the approach are confined to UNDP supported projects. The lack of studies that illustrate how HRBA is being done over the years, its contributions and added value to both development and governance in the country is a major concern for the study.

C. Objectives of the Study

This study seeks to de-mystifying the practice of HRBA in the country. It is conceived to investigate the practice of HRBA as applied both by government and civil society for the past eight (8) years. Specifically, the study aims to:

1. Analyze how HRBA is operationalized, practiced and promoted in selected development projects in the country ;
2. Analyze the different modalities of HRBA practices and to draw up evidence-based indicators to measure its success
3. Draw insights and lessons of the HRBA practice in terms of its sustainability and replicability; and

4. Examine the added value of the approach and its prospects and implications in governance and development

The study focuses on selected governance and development projects under the Governance Portfolio of the Government of the Philippines (GOP) and the United Nations Development Programme (UNDP). The Governance Portfolio is one of the four (4) areas of cooperation program framework of the UNDP with the Philippine Government that seeks to improve poverty conditions in the country through the capacity building of government institutions and civil society and mainstreaming into the process the standards and practices of human rights.

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The Governance Portfolio of the GOP-UNDP took more serious steps to institutionalize HRBA in all UNDP assisted governance projects. The Portfolio identified as criteria for assistance the mainstreaming of HRBA under its nine (9) Portfolio Programmes. These programmes include Legislative Reform, Managing Globalization, Economic Management and Civil Service, Right to Development, Judicial and Justice Reform, Anti-Corruption, Governance Review, Decentralization and Local Governance and Political and Electoral Reform.

As an advocacy for project assistance, agencies and organizations undertaking projects are made to undergo General Orientation on HRBA. This started in the 1st cycle of the Governance Portfolio from 2002-2004 through the nine (9) cluster programmes and sustained through the proponents' Orientation Program on HRBA conducted by the Commission on Human Rights of the Philippines (CHRP) for 30 UNDP projects under the Governance Portfolio. The same practice was observed at the start of the 2nd cycle of the Governance Portfolio in August 2005. General Orientation covering among others, the HRBA was given to proponents of some 35 projects focusing this time on HRBA Capacity Building for both duty-bearers and claimholders involved in the various projects. Moreover, as a criterion for development assistance, the portfolio integrated HRBA into its templates requiring the mainstreaming of human rights into the various stages of the projects covered by UNDP support.

At the UNDP level, HRBA was applied for development programming and project development. The CHRP expanded its framework on HRBA in Development and Governance encouraging its application not only at the project level but also as a perspective, framework and tool in the implementation of agency and organization mandates, programs and operations. On its own, the CHRP integrated into its regular education and training programs the HRBA Framework and further developed standard orientation and training modules and a systems and tools manual on HRBA in 2002-2003.

D. Research Methodology

The Case Study method was used in this study. Through this method, six (6) modalities of HRBA were produced responding to the following research questions:

1. *How the HRBA was applied and practiced in specific development or governance initiatives?*

This study reviewed the experiences of the lead proponents of the projects covered by the study in terms of how they were able to apply the approach in meeting the *development objectives* of their projects, how they were able to apply relevant human rights standards in their plans and activities. Concomitantly, this dissertation sought answer as to the application of the HRBA in governance in terms of capacity building of project stakeholders relative to how they were able to make relevant government stakeholders accountable for the fulfillment of the rights entitlements of specific target vulnerable or disadvantaged groups, how they were able to carry out these plans and activities with support coming from both the target groups claiming their rights and government agencies, which have the duty to comply, by what forms, instruments and means were these accountabilities and entitlements fulfilled, how was the implementation of these instruments and means monitored and by what human rights measures were these evaluated.

2. *What are the common elements, processes and measures observable in these HRBA practices? How do these contribute to the achievement of both the development and governance objectives in selected UNDP projects?*

This study made attempt to organize and analyze all available data and information to approximate the modalities or ways of how to do HRBA highlighting the peculiarities, probable rudiments and procedures, methods and tools, benefits and contributions and lessons learned from operational issues, constraints and risks, policies and institutional arrangements, resources and considerations for sustainability, as observed in specific development or governance initiatives.

3. *How would the HRBA stakeholders, both the duty-bearer and claimholders be capacitated in order to contribute to the larger goals of development and governance and what are their competency requirements?*

This study explored a general policy framework to reorient the perspective of key stakeholders on a rights-based development or rights-based governance through the HRBA with or without international support. This policy framework would build upon the “selling point” of the good examples of modalities of HRBA established by the study. The dissertation would also examine the basic competency requirements for HRBA practice in selected projects.

Research Design

The study is a qualitative research that built upon a systematic and holistic picture of the different HRBA modalities drawn from the information and data generated from the actual application of HRBA in selected sample projects.

TABLE 1 – RESEARCH DESIGN

Objectives of the Study	Combination of Methodology	Sample Size
1. Analyze how HRBA is operationalized, practiced and promoted in selected development projects in the country ;	Case Study of six selected projects; and Collective case analysis for triangulation and validation	Six (6) selected projects of the GOP-UNDP Governance Portfolio
2. Analyze the different modalities of HRBA practices and to draw up evidence-based indicators to measure its success		
3. Draw insights and lessons of the HRBA practice in terms of its sustainability and replicability; and	Conduct of User Satisfaction Rating Conduct of Structured Interview with Implementing Partners and other HRBA practitioners	10-15 Project Stakeholders Direct participant Project proponent Implementing partner Other HR Practitioners
4. Examine the added value of the approach and its prospects and implications in governance and development		

Case Study Method

The case study was used both for the process and output. The use of this method was characterized by the researcher's spending extended time, on site, personally in contact with activities and operations of the case reflecting and revisiting meanings of what was going on (Stake, 2003, 203). As further defined, what dictates the case is the purpose of the investigation. In this case in point, the holistic account of the HRBA application in selected projects, and not the projects per se, was the purpose of investigation.

Two (2) types of this method were employed. These are: a) instrumental case study and b) collective case study (Stake, 1994, 237). Both types were required to do an examination of the phenomenon involved with the application and practice of HRBA. The same parameters discussed earlier were used for the case analysis and collective case analysis. Designs for both the instrumental case analysis and collective case analysis are contained in Appendix J.

For the instrumental case study involving six (6) selected projects, the purpose was to investigate the operationalization of the concepts and practices of HRBA as applied in selected projects. These projects involve HRBA mainstreaming in a) policy reform, b) localization of the Millennium Development Goals (MDGs), c) setting of indicators, d) government reorganization, community participation in local development and e) implementation of international human rights treaties. The profiles of these cases are shown in the following table:

TABLE 2– CASE PROFILES

PROFILE	CASE NO.1 LEGAL EMPOWERMENT OF THE POOR	CASE NO. 2 DEVELOPING SN. FERNANDO CITY AS A RESOURCE CITY	CASE NO. 3 RIGHT TO FOOD PROJECT	CASE NO. 4 IMPLEMENTING E.O. 366: A PRACTICAL GUIDE FOR MANAGING THE CHANGE PROCESSES	CASE NO. 5 MEDIA- COMMUNITY ACTION ON MAINSTREAMING HRBA AT THE LOCAL LEVEL DEVELOPMENT	CASE NO. 6 NATIONAL HUMAN RIGHTS ACTION PLANNING
Proponent	ESCR Asia, Inc.	San Fernando City Local Government	Commission on Human Rights of the Phil.	Department of Budget and Management	Center for Community Journalism and Development	Presidential Human Rights Committee
Sector Involved	Informal Labor	Local Government	National Government Agencies	Public Sector	Media and Community	All Vulnerable Sectors
Project Scope	National and Regional	Sn. Fernando City and its Barangays	National	National	Selected Local Communities	National and Regional
Project Start	4th Quarter of 2006	3 RD Quarter of 2007	4 th Quarter of 2005	4 th Quarter of 2006	2 nd Quarter of 2002	2004 up to present
Status, as of date	Completed in December 2007	Completed in June 2008	Completed in	Completed in 2 nd Quarter of 2007	Completed in 2004	Ongoing

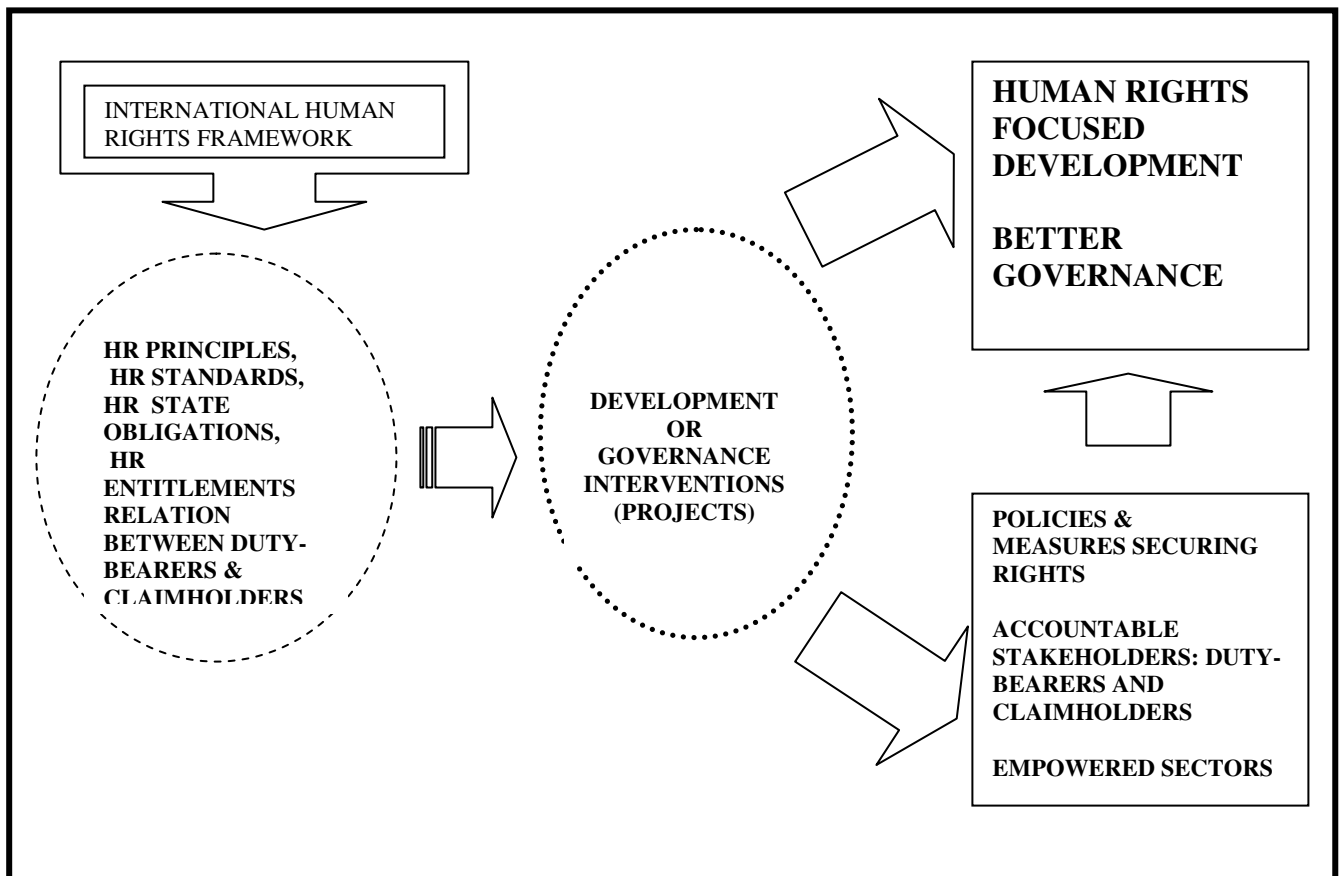
For the collective case study, the purpose is for triangulation, meaning multiple sources such as the six (6) project cases were used *aimed at corroborating the same facts or phenomenon*⁶ on the application and practices of the HRBA, using the above HRBA boundaries and parameters, which were identified specifically for purposes of this study. Thus from the strengths and biases of the six project cases were drawn complementing or substantiating analyzes from multiple sources such as documents, observations, interviews and consultations. Under this method, all the instrumental cases were treated as one whole case study. The collective case analysis was done using the single case design with findings contributing to the collective case, while retaining each case as a single case. Generalizations for collective case analysis were guided by an assessment of the HRBA parameters applied across the case studies.

Findings and analysis of both the instrumental and collective case analyses were further validated and augmented by structured interviews. As designed, structured interview (Appendix L) was conducted among official representatives of projects designated by heads of agency proponents. . From the development partners, the European Commission and Asia Foundation responded also. All in all, seventeen (17) institutional representatives were interviewed. HRBA user satisfaction was also rated to augment the findings on the use of HRBA in each case.

E Conceptual Framework of the Study

Resulting from a detailed review of literature on HRBA, the study adopted the following conceptual framework, which guided the conduct of this empirical study that would address the problem statement and research questions on the practice of HRBA in the country. The framework follows the theory that on the basis of what the international human rights framework offers, there could be a progressive enjoyment of human rights to which every human being is entitled since man's beginning, if the HRBA is used to mainstream the core principles, standards, state obligations and people's entitlements, which are embodied in the International Human Rights Framework to include UN Declarations, International Covenants and Conventions.

FIGURE 1 : CONCEPTUAL FRAMEWORK



Source: Original design

Figure 1 projects the mainstreaming of HRBA into the various development and governance interventions based on the International Human Rights Framework characterized by the following processes:

1. The mainstreaming of HRBA through the application of human rights principles and human rights state obligations and people's entitlements in defining development problems and capacitating governance stakeholders involved in the projects;
2. The mainstreaming of HRBA in the projects through the application of human rights principles and standards yield to outputs such as rights-based policies and measures, more accountable and obligation-bound stakeholders and empowered sectors with their rights entitlements

3. The contextualized implementation of the International Human Rights Framework for mainstreaming human rights through the use of local parameters such as the mainstreamed rights-perspective, the methods and tools used, the human rights content of outputs and outcomes and the institutional policy and organizational support that guarantee HRBA application; and
4. The rights-orientation of outcomes both in terms of content and process towards a human-rights focused development and good governance that serve as enabling environment for the constant development of the people in larger freedom and exercise of rights.

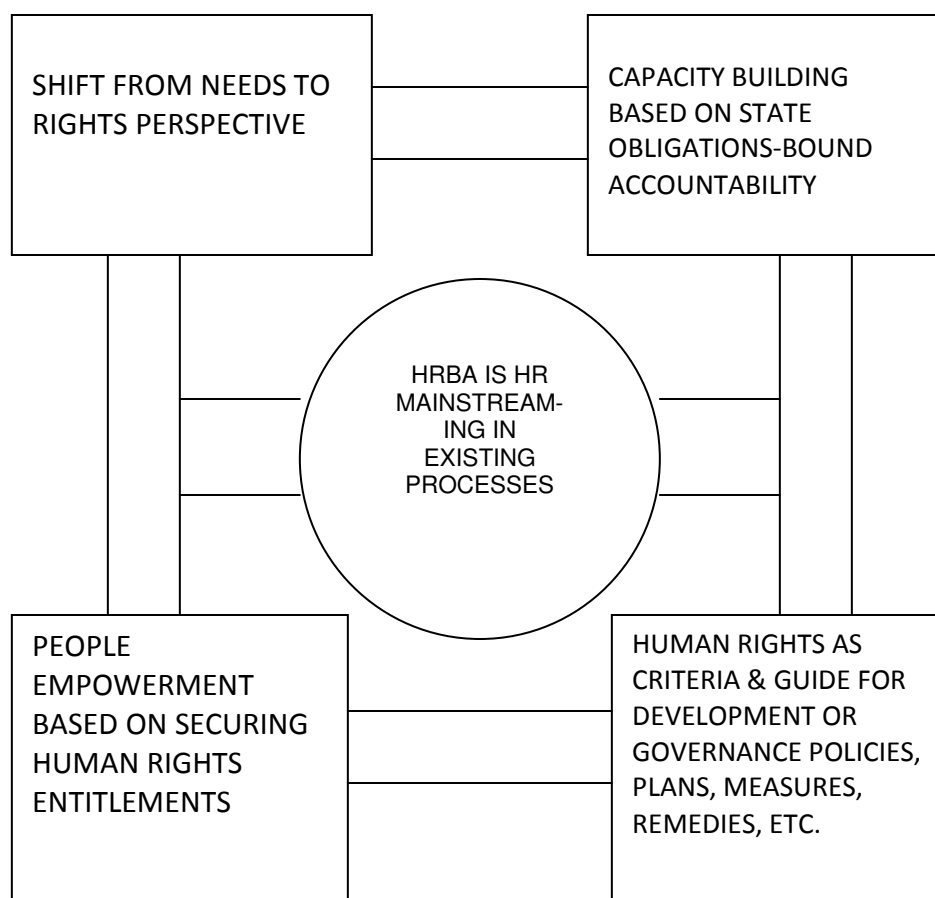
As used in the study. HRBA is operationally defined as discussed below:

1. HRBA is mainstreaming of the HRBA core elements comprising of Human rights principles, standards, obligations and entitlements as criteria and guide for development or governance processes. It is not a separate approach or a substitute to any existing development or governance process.
2. HRBA provides a paradigm shift of understanding the status or conditions of people from needs to rights perspective. This means that needs correspond to certain rights guaranteed under the international human rights treaties or national human rights laws;
3. HRBA facilitates mainstreaming of human rights principles in capacitating governance stakeholders. The application of human rights principles follows the universal definition. For purposes of this study, the principle of accountability is herein applied in terms of the state or government complying with its human rights obligations while empowerment means capacitating the vulnerable groups based on their rights entitlements.
4. HRBA is an approach that guides the planning, analyzing, advocating, assessing and monitoring of processes or initiatives using human rights criteria and measure. It does not introduce a new process of policy making, program and project development and implementation but works within the existing established processes.
5. HRBA works between the interaction of the duty-bearer (mostly referred to as the state/government actor) and the rights-claimholder (people especially the vulnerable and disadvantaged sectors). The private actors referring to business comes in as non-state actor regulated by the government; and

6. Continued practice and mainstreaming of human rights in development or governance processes contribute to attaining human-rights-focused development and better governance.

This definition is illustrated in Figure 2 below:

Figure 2: HRBA Operational Definition



Source: Original Design

F. Definition of Terms

The following definition of terms is adopted from the International Human Rights Framework and used for purposes of the study. Any and all references made to the use of the following terms in the study would be based on the explanation provided below:

1. Human Rights –UNDP in its Human Development Report in 1960 defined human rights as the supreme, inherent and inalienable rights to life, to dignity and to self-development. It is the essence of these that makes man human.⁷ There are two sets of rights namely: civil and political rights and economic, social and cultural rights. There is no such thing as prioritization or hierarchy of rights based on the human rights principles that human rights are universal, indivisible and interrelated.

2. Human Development – UNDP in its 2001 Report explains that human development is the expanding choices for all people in the society, wherein men and women, particularly the poor and the vulnerable, are at the center of the development process. It also means the protection of the life opportunities for future generations... and ... the natural systems on which all life depends, thus creating an enabling environment in which all can enjoy long, healthy and creative lives.⁸ This has been the concern of every society considering the persistence of global poverty and powerlessness, wherein achievements of societies with regard to basic human rights indicators or indexes are relatively low in developing countries.

3. Development – As enunciated in Article 1 of the UN Declaration on the Right to Development, development is a comprehensive economic, social, cultural and political process aimed at the constant improvement of the self-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of the resulting benefits.⁹ Over the past many decades, there had been continuous search into how development can be approached and achieved both as a process and an end, as well as the priorities that societies should look upon to make development benefits distributive and equitable. This is one priority agenda in the Philippines in relation to the human rights conditions of the vulnerable and disadvantaged sectors of the country.

4. Human Rights Principles – According to Aurora Parong in her article on Principles and practices of Human Rights, the principles of human rights are embodied in international human rights laws such as the International Bill of Human Rights as well as other human rights declarations.¹⁰ These principles are essential conditions to facilitate the definite enjoyment of rights and these principles originated from human rights norms. These human rights principles are universality, non-discrimination and equality, attention to vulnerable groups, equity, indivisibility, interdependence and interrelatedness, accountability, people's participation, empowerment, good governance, independence of the Judiciary, legislative capacity and transparency.¹¹ These principles work in various ways but basically serve as criteria of processes of achieving human development. Some of these principles are similarly viewed as a helpful guide in capacitating the different governance stakeholders particularly the principles of accountability, transparency and rule of law. These human rights principles are regarded as one of the core elements of HRBA.

5. National and International Framework – As explained in the UNDP Training Manual on the Rights-Based Development Training Manual issued in 2002, human rights are standards of human dignity rooted in every culture, religion and

tradition throughout the world. Their inclusion in the UN Charter means human rights are no longer exclusively within the domestic jurisdiction of states but they are legitimate concerns of the international community.¹² It also, consists of international human rights law consisting of customary law (including non-binding declarations and general comments, etc.) and treaties and the national framework as the Constitution and domestic laws.

6. Human Rights Instruments – As described in the same UNDP manual, it says that human rights instruments refer to two types: Human Rights Treaties also known as conventions or covenants; and UN Standards also known as UN Principles, Rules and Declarations.¹³ These are instruments that address the status and level of enjoyment of rights of people in different societies, incorporating therein the universal response and standards of human rights observance.

7. Human Rights Treaties – Based on the International Human Rights Framework, the idea that human rights should be enjoyed by every human being goes back to man's beginnings. But the protection and promotion under international law those human rights are still in infancy compared to the system of government. It is thus the intention of the international treaties to narrow the existing gaps between human rights aspirations and reality to ensure that each human being is accorded the dignity he is entitled to.¹⁴ Thus, as defined these treaties also known as conventions or covenant are formal legal texts to which states become parties and which create binding legal obligations. The following are seven fundamental human rights treaties ratified by the Philippines: International Convention on the Elimination of All Forms of Racial Discrimination (CERD); International Covenant on Civil, Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESCR); Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); Convention on the Rights of the Child (CRC); and Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (MWC).¹⁵ Each of these treaties have monitoring bodies serving as the oversight for the status of implementation of the treaties in different societies especially the UN member signatories, which carry human rights state obligations having signed the treaties. The various treaty bodies deliberate on the different country reports. Consideration of the country reports are followed by the issuance of concluding comments and observations.

8. UN Standards – The UNDP Training Manual of 2002 defined UN Standards as UN Principles, Rules or Declarations that are passed by resolutions of a UN body, which is usually the General Assembly. Examples of UN Standards are the Universal Declaration on Human Rights and UN Declaration on the Right to Development.¹⁶ These are often negotiated over a period of time to which all members of the UN participate. These standards are arrived at by consensus of the UN members.

9. Normative Content of Human Rights – In the same manual, normative content of rights is defined as the specific standards protected by such right or its actual meaning that can be used as objective standards of human dignity in the development

process. These standards become important guides to be used in the dynamic process such as development because the normative content of human rights includes guidance for immediate and progressive realization.¹⁷ These human rights and their normative bases are contained in the treaties, general comments and even, in periodic treaty concluding observations issued by treaty bodies. The application of human rights standards is another core element of the HRBA practice.

10. State Obligations – Maria Socorro I. Diokno in her article published in the *CHRP-UP_NCPAG Source Book on Human Rights* in 2006 explained the different levels of state obligations.¹⁸ Originating from international human rights framework that requires a particular conduct now (immediately and also the attainment of certain results over time (progressively)). Emphasis is given to the fact that human rights always imply human duties and responsibilities and most of these duties or obligations lay on the state because the State's political, economic and military power over its citizen is both the major threat to human rights and also its major guarantee and protection. State obligations are founded in the very text of the treaties. The concept of State Obligation is herein applied in the study as another core element of HRBA, as basis for establishing accountabilities at different stages and aspects of development or governance.

11. Human Rights-Based Approach (HRBA) – UNDP in its 1995 report on *Human Reports in Development* described HRBA as a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights applying the integration of the norms, standards and principles of the international human rights system into the plans, policies and processes of development.¹⁹ This is popularly referred to as the mainstreaming of human rights either in development or governance, either on a national scope of development programming or mainstreaming in the context of project development. There is no single approach to HRBA only core elements that make up its practice or operationalization.

12. Mainstreaming - As defined by Christopher Mc Crudden, mainstreaming means reorganization, improvement, development and evaluation of processes so that human rights perspective is incorporated by actors into policies and measures at all stages. Further, he explains that mainstreaming as contrasted with mere compliance, is intended to be anticipatory rather than remedial and to be extremely participatory in defining issue and how it might be addressed. As may be deduced from this definition, mainstreaming aims to complement and support compliance but does not supplant it.²⁰ Taken from this definition, mainstreaming is the process of incorporating human rights principles and standards and other concepts and practices of human rights into development and governance interventions more popularly known as Human Rights-Based Approach (HRBA).

13. Right to Development – As defined in the 1995 UN Declaration on the Right to Development, right to development is an alienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and

enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.²¹ The right to development is founded in the Declaration of the Right to Development of 1985, which is the sound basis and framework for human rights-based approach to development. This declaration is used as the framework for the practice of HRBA to Development.

14. Development Projects – For purposes of this study, development projects refer to time bound interventions to effect changes in the condition and quality of life of the people. In the context of this study, these are implemented to produce development outputs, which may contribute directly or indirectly in the attainment of development outcomes.

15. Governance Projects – Also in the context of this study, these are time bound interventions to effect changes in the capacities of governance stakeholders. These are projects that respond to enabling the governance stakeholders to overcome weaknesses and constraints towards achieving more effective performance of mandates. Under this study, governance projects focus on the capacity building of both the duty-bearers and claimholders of rights.

16. Duty-Bearers – As discussed in the 2002 UNDP Training Manual, these are governance actors that have responsibilities in the realization of rights.²² In the traditional and legal approach based on the treaties, the state is often assumed to be the duty-bearer. There is a consideration that private sector or business is a non-state duty-bearer. For purposes of the HRBA, this concept of duty –bearer is loosely applied to mean all those who have the responsibility and the mandate to respond or assist in the securing of human rights entitlements for the claimholders. For the most part of this study, duty-bearers refer to government agencies.

17. Claimholders – In the same manual, claimholders are referred to as governance actors that have claim or entitlement over the rights being secured. Under the HRBA, they may refer to people’s organizations, basic sectors or any organization of vulnerable and disadvantaged sectors that are often unaware of their rights and how to claim them. It is assumed also that while they may have claim over human rights entitlements, they also, perform certain responsibilities in seeking the well-being, justice and equity for all, relative to individual obligations are concerned.²³

17. GOP-UNDP Governance Portfolio is the joint cooperation program of the Government of the Philippines and the United Nations Development Programme (UNDP). The GOP is represented by the National Economic Development Authority (NEDA). Under the portfolio, there are implementing partners and responsible partners. The responsible partners are the direct proponents of projects, referred to in this study.

G. Scope and Limitations of the Study

The original plan of uncovering and analyzing indigenous practices of human rights should have been the focus of the study. However due to some technical considerations and limited resources, to conduct a nationwide survey, the study was given a different focus.

The study works within the International Human Rights Framework but the practice of HRBA as used in this study is based on the operationalization of the approach by the United Nations Development Programme specifically in the areas of development programming, project development and project assistance. Other international development partners may have adopted human rights based approaches in the context of their own unique policy frameworks, which are not covered by the scope of this study, but the same could be an interesting area for further research in the future.

On the overall, the study focused on Philippine projects under the Governance Portfolio of the GOP-UNDP Country Cooperation Program. Ideally, the study should have covered all the GOP-UNDP Programme Portfolios namely: Empowerment of the Poor, Peace and Development, Environment and Governance. All these portfolios were covered by the series of HRBA orientation and trainings when the approach was introduced by the UNDP in the country in cooperation with the National Economic Development Authority (NEDA) and the Commission on Human Rights of the Philippines (CHRP). However due to financial constraints and material time to cover a study of this wide magnitude, the dissertation focused only on six (6) projects under the Governance Portfolio, which were chosen based on certain criteria.

As surmised, this Governance Portfolio constitutes more variety of development and governance initiatives both at the national and local levels and thus, more suited to cover the wide concerns of the problems, issues, questions and objectives of the study.

Some limitations, though, were recognized in the course of conducting the study. The study substantially depended on the reliability of the information shared by the lead proponents of projects of the Governance Portfolio. In order to address possible information gaps, a review of relevant project documents was undertaken and complemented by the conduct of structured interview with key informants of the projects and other stakeholders.

Moreover, the study was limited to six (6) governance projects that were supported by UNDP to represent those that practiced and mainstreamed HRBA and those who participated in a series of HRBA training conducted by the CHRP and UNDP. The case study did not cover all the management aspects of the six (6) projects. Only the content and process of HRBA applied in the projects were subject to analysis.

H. Significance of the Study

It is the intention of this study to see how HRBA contribute to the narrowing of the gaps between human rights aspirations and reality to ensure that every human being is accorded the dignity to which he or she is entitled to since man's beginnings. As Mary Robinson, former UN High Commissioner said "*Human Rights are inscribed in the hearts of people; they were there long before lawmakers drafted their first proclamations.*" These aspirations are embodied in both the national and international human rights framework, which needed more implementation and enforcement. Through this study, the HRBA as a soft and persuasive approach but "not compromising", will demonstrate how governance actors may be capacitated into mainstreaming human rights in development or governance projects that could empower people seek their human entitlements and hence, improve their quality of life. Specifically, this study on HRBA will provide the means to enhance existing development and government processes that can make interventions and projects more focused and targeted in terms of alleviating poverty in the country. Hence, this study will introduce how best the approach could be used in implementing international human rights treaties that will serve as guide to different governance actors in pursuing development in the country.

The limited literature on the best practices that will substantiate and analyze in operational and practical terms the rhetoric of the HRBA will hopefully present empirical evidence on the usefulness of the approach in the Philippines. While there are best practices from other countries, understanding HRBA as to how it is done, its contributions and the difference it makes in relation to achieving development and concomitant governance goals in the Philippines lingers and thus, continues to be a key challenge. However, at the onset, the proponent of this study would like to state that this study is not merely focused on best practices to support HRBA but it is also centered on contributing to the body of knowledge on how development and particularly governance could be enhanced by HRBA and thus, would inevitably touch on an assessment of the factors that may promote and impede its application as demonstrated in some observed practices

In addition to filling a portion of the "information gaps", the study will enlighten those in the human rights field as to the practical processes involved in mainstreaming human rights in the realm of development and governance. As a pioneering study, this would encourage more HRBA practitioners to give flesh and substance to HRBA at the operational practice through conduct of similar studies that would illustrate the virtues and added-values of the approach.

I. Organization of the Study

The study presents the following chapters:

Chapter 1 - Introduction includes the rationale, objectives, research methodology, conceptual framework and definition of terms, scope, limitations and significance of the study

Chapter 2 - Review of Literature covers the historical beginning of HRBA, theoretical foundations of human rights, development, governance and human rights-based approach. It also includes citation of existing foreign studies on HRBA cases and recent developments in the practice of the approach.

Chapter 3 - Case 1 on the Legal Empowerment of the Poor illustrates an HRBA modality in the conduct of consultative policy studies and formulation of legislative proposal on the empowerment of the informal sector on four (4) focus areas: 1) access to justice and the rule of law; 2) property rights; 3) labor rights; and 4) business rights.

Chapter 4 - Case 2 on the Rights-based Localization of MDGs illustrates an HRBA modality in the existing process of local planning in San Fernando City and its 59 Barangays particularly in the application of human rights standards and indicators in the MDG planning.

Chapter 5 – Case 3 on the Right to Food Project using HRBA illustrates a modality of HRBA, which resulted in identification of the government organization's (duty-bearers) respective roles in fulfilling state obligations on the Right to Food

Chapter 6 - Case 4 on Implementing E.O. 366: A Practical Guide for Managing the Change Processes of the Rationalization Program illustrates a very simple application of the HRBA in government wide reorganization.

Chapter 7 - Case 5 on Media-Community Action on Mainstreaming Human Rights-Based Approaches at the Local Level illustrates a modality of HRBA using obligation-bound accountability and rights-entitlement empowerment as applied in the strategies and processes of public journalism.

Chapter 8 – Case 6 on National Human Rights Action Planning (NHRAP) illustrates a more defined modality of HRBA. The design of the HRBA for national action planning was done in a very detailed and intricate manner in order to orient the entire government machinery (duty-bearers) and the participating vulnerable sectors (claimholders) and CSOs on human rights and the approach itself

Chapter 9 – Summary, Conclusions, Future Directions, Recommendations and Implications. This is a consolidation of the findings of the six (6) cases vis-à-vis the HRBA parameters adopted for the study. Also covered under this chapter are the

Conclusions, Future Directions and Replicability of HRBA based on the general lessons derived from the study, as well as, the comments and recommendations of various stakeholders and the study's overall implications to Development, Public Administration and Governance.

CHAPTER 2

REVIEW OF RELATED LITERATURE

This section revisits all related literature on HRBA, Development and Governance, which could help shed light to the problems, issues and research questions to be addressed by the study. Both foreign and local readings are covered by this section. Discussions are thematic as basis for the theoretical, conceptual frameworks of the study and operational definition of HRBA.

It focused on the core elements of HRBA as take off point in attempting to establish the role of HRBA in development and its implications on good governance.

For greater understanding of the HRBA, it is best that this chapter presents in brief a background on human rights. Jorge Coquia in his written work on the History, Theories of Sources and Development of Human Rights in 2000 asserted that human rights are as old as human society. Human rights as referred to in ancient times refer to the “*Rights of Man*”. These rights were asserted by the citizens against tyrannical governments arising from the struggle of man against injustices of despotic rulers and tyrannical governments.²⁴ Therefore, as contended by Aurora Parong during the Multi-Sectoral Forum on the Popularization of the Paris Principles in the Context of HRBA to Governance and Development in February 2004, human rights did not start from the Universal Declaration on Human Rights (UDHR) in 1948 since peoples have been concerned with rights and freedoms since ancient times.²⁵ From these two pieces of literature, it could be deduced that the concept of human rights evolved to the “*Rights of Man*”, the French’ s Declaration of the Rights of Man and the Citizens in 1789 and the Americans’ US Bill of Rights in 1791²⁶ Resulting from the abuses of men and women against other men and women, peoples of nations against other peoples of other nations came the establishment of the United Nations in 1945. Forty eight members of the United Nations adopted the Universal Declaration of Human Rights (UDHR). The term “*Rights of Man*” was changed to “Human Rights”, which refer to both man and woman. Several principles of the UDHR became internationally accepted and were in fact, incorporated to the Constitutions of more than 185 member countries of the UN.²⁷ These developments in the UN were followed by the drafting, adoption and ratification of conventions or treaties on human rights. To date the Philippines has been a signatory to eight (8) core International Human Rights Treaties, among others. These treaties are International Covenant on Civil and Political Rights (1966) International Covenant on Economic, Social and Cultural Rights (1966), Convention Against Torture (1984), Convention on the Rights of the Child (1989), Convention on the Elimination of all Forms of Discrimination Against Women (1979), Convention on the Rights of Migrant Workers (1990) and Convention Against Racial Discrimination (1965) and Convention on the Rights of Disabled Persons (2009).²⁸ These consist of international human rights framework consisting of these treaties, including non-binding declarations and general comments, and customary laws.

A. HRBA and its Role in Development

Conceptually, HRBA has its beginnings rooted in the international human rights framework. Within the context of this framework the approach is conceived as a process to mainstreaming human rights in every stage and aspect of development in order to improve the quality of life of people across the globe. To understand the approach, its core elements as applied in this study must be comprehensively understood. These elements are: 1) A paradigm shift from needs to rights; 2) Operationalization of human rights principles; 3) application of human rights standards; and 4) implementation of human rights obligations and entitlements. As described by UNDP in the article “A Human Rights-Based Approach to Development Programming in UNDP published in 2001, HRBA is understanding development and process of achieving universal realization of rights and freedoms by expanding people’s choices and capabilities through an empowerment process. As further explained in the UNDP Training Manual on HRBA of 2002, the mainstreaming of human rights in development provides the objective standards for effectiveness of development, accountability and evaluative role as the criteria for improving the quality of life of the vulnerable and disadvantaged sectors.²⁹

Integrating Human Rights into Development

This study considered understanding needs perspective to human rights as one core element of HRBA. In order to understand this element, there is a need to present how this shift came about as started by the UN specifically the framework and the particular initiatives undertaken by the UN to make this approach work. This trend in human rights work in development was not only pursued by the UNDP. A Study of donor approaches and experiences on integrating human rights into development was prepared for the OECD DAC Network on Governance (GOVNET), September 2005. The study points to the fact that agencies have adopted different rationales for working on human rights; some prefer not to work on human rights explicitly. Legal, political or empirical issues are amongst some of the challenges faced by agencies; research and multi-disciplinary exchanges can inform the further development of policies and their operationalisation. The integration of human rights into development can be classified using a five-part typology, as summarised in the table below. Most agencies are situated within the three central categories – project, mainstreaming, and dialogue – a shared feature of which is the positive use of human rights. A number of agencies are moving to human rights-based approaches, which requires institutional change in the provision of aid. In some agencies, an implicit integration can be identified. The most common form of assistance has traditionally been projects, though a strategic use of human rights can be found in the design of country programmes and global initiatives.³⁰

Human Rights had been laid out as criteria for development since the inception of the Universal Declaration on Human Rights (UDHR), which was adopted by the UN Family

on December 10, 1948. The declaration is one core document that laid out the framework and standard criteria by which development needs were given corresponding human rights criteria. The UDHR is an offshoot of the Second World War that proclaimed the common standards of achievement for all peoples and all nations. This early, the members of the UN should have been properly guided in their pursuit of development. This declaration was made in response to the atrocities, oppressions and violence against humanity as experienced during WW II, which prompted the UN family to affirm its commitment to pursue social progress and standards of life in larger freedom both at the national and international levels.

More than 60 years ago since the adoption of the UDHR, the global community had a history of achieving the goals of peace, justice and social progress. The history involves a continuing process of defining, describing and promoting human rights, specifically how the human person must be treated. The intention is to internationalize human rights and to strengthen national systems that protect them. All states that joined the UN embraced its key purpose of respecting and promoting human rights. As declared in the preamble of the UN Charter, its primary purpose is “*promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion.*” . However, the UDHR and the treaties did not seem to be enough. Poverty and powerlessness across the globe persisted. On its part, the United Nations Development Programme (UNDP) continued its search for varied approaches to respond to the phenomenon of poverty, powerlessness and underdevelopment. UNDP in its special report on Governance and Sustainable Development defined Sustainable Human Development (SHD) as a process of enlarging the choices of all people in society. Specifically, SHD is characterized as pro-people, pro-jobs and pro-nature. Highest priority is given to poverty reduction, productive employment, social integration and environmental regeneration. This definition considered partly the recommendation of the Brundtland Commission, the Rio Declaration and other UN documents and also, the work done by the non-government organizations for 30 years.³¹

In 1995, the UN Commission on Human Rights drew up a definition of development taking into consideration its human rights dimension. As espoused by the Commission, development is people-centered, participatory and environmentally sound. It involves not just economic growth, but equitable distribution, enhancement of people’s capabilities and widening of their choices. It gives top priority to poverty elimination, integration of women into the development process, self-reliance and self-determination of people and Governments, and protection of the rights of indigenous people.

Continuous advocacy was pursued internationally to explicitly link human rights and development needs. In 1986, the UN issued the Declaration of the Right to Development. This piece of document reveals the first time that the link between human rights and development was fully recognized. As elucidated in the declaration, *Right to Development is an inalienable human right, with exact provisions that “every human person and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and political development.* As espoused in the declaration, development involves the full realization of the right of peoples to self-determination, which includes,

subject to the relevant provisions of both International Covenants on Human Rights, the exercise of their inalienable right to full sovereignty over all their natural wealth and resources.³² Further guidelines of the declaration point to the idea that development seeks empowerment both in the process and outcome levels. It carries with it the responsibility in achieving the full realization of human rights. Certain principles will have to be observed as guide for an empowering development process:³³ Also, the declaration provided a framework that development is not a theoretical exercise to transform a certain amount of money into some other commodity or some more money. It gave fuller meaning to the concept of development as a process about people and deals with people's lives.³⁴

Such contention was validated in a study conducted by the World Bank in 2002, where around 80,000 poor people world wide were asked how it felt to be poor and what it meant to them in their everyday lives. The responses of poor people are extremely significant to development practice. Their perceptions pointed at the fact that "poverty was not merely absence of commodities and services to meet basic needs but rather a question of powerlessness". Aside from the importance of material assets, health and education in improving people's lives, the poor mentioned the influence of factors such as emotional integrity, respect and dignity, social belonging, cultural identity, organizational capacity and political representation and accountability. The World Bank Study concluded, "development should ultimately increase people's freedom to live the lives they value."³⁵

Express Linkage between Human Rights and Development

In 1995, the Copenhagen Declaration reaffirmed the link between human rights and development by establishing a new consensus that places people at the centre of concerns for sustainable development, and by pledging to eradicate poverty, to promote full and productive employment, and to foster social integration to achieve stable, safe and just societies for all.

In its General Comment on international technical assistance, the Committee on Economic, Social and Cultural Rights warned that proposals for the integration of human rights into development activities can too easily remain at a level of generality. The Committee had long recognized that development cooperation activities do not automatically contribute to the promotion of respect for human rights simply by addressing thematic human rights concerns such as health, education or governance. It has cited as evidence the many activities undertaken in the name of "development" that have subsequently been recognized as ill-conceived and even counter-productive in human rights terms.

A case sample from UNDP Argentina was documented Linking MDGs and Human Rights in Local Contexts. In such case documentation, human rights were used by UNDP Argentina as the channel through which to encourage greater public engagement in the MDG process at local level. UNDP Argentina hosted two diagnostics workshops involving civil society organizations and local authorities in the municipality of Morón to

identify citizens' priorities for the local poverty reduction strategy. While human rights were widely understood by participants, MDGs were perceived as strange or foreign concepts. The first workshop thus began with sensitization exercises. Participants first worked in mixed groups to prioritize the MDGs for their municipality, and then after debating the findings of different groups in plenum, the groups linked the MDGs to human rights. In the second workshop, participants proposed policy areas that would help the population achieve the MDGs. These proposals were then compared with the municipality's list of ongoing public programmes and policies for each MDG.³⁶

This development further led to the business of the Human Rights-Based Approach (HRBA). Founded on the definition of the rights-based definition of development in article 1 of the Declaration on the Right to Development, development is viewed as a comprehensive economic, social, cultural and political process. Its object is the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the resulting benefits. The human rights approach to development is therefore integrated and multidisciplinary. Offering practical advice on how integration can be better achieved, the Committee has recommended that United Nations development strategies should expressly recognize the "intimate relationship" between development activities and efforts to promote respect for human rights; that development cooperation activities should be subject to human rights impact assessment; that development personnel should receive human rights training; and that human rights obligations should be taken into account at every stage of development projects (i.e. needs assessment, project identification, project implementation, project monitoring and project evaluation). Under the framework of the HRBA, human Rights provide a holistic framework and tools for development.

The link between human rights and development are also established under the 1987 Philippine Constitution. The 1987 Constitution establishes a democratic State and recognizes that sovereignty resides on the people. The Constitution recognizes the right of the people and their organizations to effective and reasonable participation at all levels of social, economic and political decision making (XIII-16). Together with a bill of rights and a detailed description of civil and political rights, the Constitution establishes specific obligations for the state such as to guarantee full protection to workers (XIII.3), establishes policies and provide adequate social services, employment and rising standards of living and improved quality of life for all (11.9), protection of the right to health (11.15), to a balanced and health ecology (11.16), ensuring free primary and secondary education to all and promote quality of education at all levels (XIV.1), respect and protect the rights of indigenous cultural communities to preserve and develop their cultures, traditions and institutions (XIV.17), among others. All these are all contained in the International Human Rights Treaties.³⁷

Reorientation of the UN System and its Works on Human Rights

The shifting in the orientation of development from needs to rights did not happen automatically. The UN had to take deliberate steps to ensure the observance of human rights in development work.

Despite all these international legal policies that should bind nations to their state obligations on human rights, the phenomenon of “divides” between and among countries and people persisted, which prompted Kofi Annan, the UN Secretary General then to institute reforms in the UN in 1997. In his report, he postulated for the mainstreaming of human rights in the UN system convinced that

“Human rights are as fundamental to the poor as to the rich, and their protection is as important to the security and prosperity of the developed world as it is to that of the developing world. It would be a mistake to treat human rights as though there were a trade-off to be made between human rights and such goals as security or development. We only weaken our hand in fighting the horrors of extreme poverty or terrorism if, in our efforts to do so, we deny the very human rights that these scourges take away from citizens. Strategies based on the protection of human rights are vital for both our moral standing and the practical effectiveness of our actions.” Hence, under the report he stated that *“if the Organization is to take the cause of human rights as seriously as those of security and development — then Member-States should agree to replace the Commission on Human Rights with a smaller standing Human Rights Council.”* As further discussed in the report, Member-States would need to decide if they want the Human Rights Council to be a principal organ of the United Nations or a subsidiary body of the General Assembly, but in either case its members would be elected directly by the General Assembly by a two-thirds majority of members present and voting. Kofi Anan fought for the creation of the Council that would accord human rights a more authoritative position, corresponding to the primacy of human rights in the Charter of the United Nations. Member States should determine the composition of the Council and the term of office of its members. Those elected to the Council should undertake to abide by the highest human rights standards. In 2008, the Human Rights Council instituted the Universal Periodic Review among members of the UN, on the status and level of enjoyment of human rights at the national level, also in the context of how development is being pursued by member countries.

Operationalization of Human Rights Principles

The second core element of human rights is the operationalization of human rights principles in development work. As reviewed under existing literature of the United Nations, HRBA and later condensed in the UNDP Training Manual, the HRBA for purposes of this study focused on the operationalization of these principles in terms of providing perspective and tools to enhance the process of development.³⁸

Human Rights Principles Inherent to Development

Human Rights have fourteen (14) principles that should guide development as true enabling criteria for expanding choices and opportunities for all to realize their human rights and freedoms. The UN Training Manual on the Human Rights-Based Approach produced in July 2002, gave flesh to the application of the HRBA in the Philippines. The UN Country Team in the Philippines adopted the HRBA to its Development Programming in 2001. It oriented and trained the entire UN Family and key partners from both government and civil society on the mainstreaming of human rights principles

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Although there are principles that are governance in essence, all these 14 principles serve the criteria and purpose of development work and process.

TABLE NO. 3- HUMAN RIGHT PRINCIPLES AND THEIR MEANINGS⁴⁰

PRINCIPLES	PURPOSES IN DEVELOPMENT⁴¹	MEANING
Accountability	▪ Determines both the essence and modes of conduct of development and governance	▪ Authority of government is based on the will and consent of the people; and ▪ Government is answerable to the people for its decisions and actions.
Attention to Vulnerable Groups	▪ Points to the essence of development and governance	▪ Greater importance given to the disadvantaged/vulnerable; and ▪ Measures taken up to help participate in the solution of their problems.
Empowerment	▪ Determines both the essence and modes of conduct of development and governance	▪ Power to act for or on their behalf to claim their rights entitlements; and ▪ Capacitating them to contribute and participate.
Equality	▪ Determines both the essence and modes of conduct of development and governance	▪ Women and men equally enjoy and exercise their rights and freedoms; and ▪ Preferential treatment where there is impairment in the

PRINCIPLES	PURPOSES IN DEVELOPMENT ⁴¹	MEANING
		exercise of their rights and freedoms.
Equity	Determines both the essence and modes of conduct of development and governance	- Fairness, justice and impartiality in the guarantee of rights and freedoms; and - Equity demands that the poor should not be disproportionately burdened.
Good Governance	Specifies modes of conduct in the pursuit of development by relevant stakeholders and actors	Participatory, consensus oriented, accountable, transparent, efficient, effective, equitable and follows rule of law.
Independence of the Judiciary	Specifies modes of conduct in the pursuit of development by relevant stakeholders and actors	- Final arbiter on human rights; - Independence guaranteed; and - Decision rendered with impartiality without influence or pressure.
Indivisibility	Points to the essence of Development	- Human rights are intertwined: the absence of one right negates the presence of the other; - Both sets of rights should be enjoyed: civil and political; and economic, social and cultural rights.
Interdependence and inter-relatedness	Points to the essence of Development	- Enjoyment or exercise of one right is dependent on the other; - No rights precede the other; and - Rights are interlinked with one another.
Universality	Points to the essence of Development	- Human Rights belong to all - Human Rights are based on

PRINCIPLES	PURPOSES IN DEVELOPMENT ⁴¹	MEANING
		principles that dignity is inherent to all
Legislative Capacity	▪ Specifies modes of conduct in the pursuit of development by relevant stakeholders and actors	▪ Human Rights must be guaranteed by law; ▪ Legislature must have the capacity to enact laws that uphold inherent dignity of person and the enjoyment, exercise and fulfillment of human rights.
Rule of law	▪ All persons are equal before the law and are entitled to equal protection	▪ Without an independent and honest judiciary there is a big risk that development will collapse
Non-Discrimination	▪ Determines both the essence and modes of conduct of development	▪ Entitled to human rights without restriction, prohibitions, exclusions or preferences.
Peoples' Participation	▪ Specifies modes of conduct in the pursuit of development by relevant stakeholders and actors	▪ Participant and contributor at all level of economic, social, and political decision making; ▪ Informed decision; ▪ Voluntary, effective and full without threats and sanctions; and ▪ Participation mechanisms made available.
Transparency	▪ Specifies modes of conduct in the pursuit of development and governance by relevant stakeholders and actors	▪ People to see openly into the activities of government; ▪ Full, free and public disclosure of decision, policies and processes of government; and ▪ Access to information especially in rule making activity of government.

The meaning of these principles, as defined in the above table, point to the fact that these principles play a significant role in describing the direction and quality of both the outputs and process of development.

There are many accounts of the effectiveness of HRBA as applied by other countries documenting HRBA practices that operationalize human rights principles. A review of a number of documented case studies in the Asia-Pacific Region provides valuable insights into the human rights practices in governance issues. The following cases demonstrate HRBA and strategies used by development agencies and civil society groups including non-government organizations and community-based organizations to successfully demand for their rights. Thus, the cases covered the landless people in Bangladesh, the poor farmers in Indonesia and restoring culture of peace in Cambodia. The cases give a showcase of the principles of participation, empowerment, accountability, transparency, good governance, policy advocacy framework and access to justice conditions that generally concern the poor and the marginalized to realize their rights in the context of governance that is not necessary initiated always by government but pursued by multi-sectors of society.

Application of Human Rights Standards

The normative content refers to specific standards protected by a specific right, what the right actually “means”. The meaning of every right may be found at the national level through jurisprudence and legislation or through the General Comments elaborated by the UN Treaty Bodies to implement the International Human Rights Instruments. The normative content describes and defines all the rights covered by civil and political and economic, social and cultural rights.

The application of the normative content involves immediate compliance for civil and political rights and progressive realization for economic, social and cultural rights. As clarified in the UNDP Training Manual, progressive realization entails maximum application of the State’s available resources and not a reason for excuse or inaction of the government. Progressive realization requires government to take certain steps regardless of the level of resources. Constant and substantial moving towards a particular goal must be demonstrated.

For development purposes, the normative content of human rights as standards of human dignity to the development process are effective guides for the analysis, design, direction and assessment of development policies and programmes.⁴²

The normative content of a particular right is found in jurisprudence and legislation at the national level and in the human rights treaties, general comments and treaty concluding comments and observations on the periodic country reports in the context of the international human rights framework. Normative content ascribes to the specific standards protected under a particular right, what it actually means or the legal

description of the right. The normative content of human rights qualifies what is important, what has value and what will enhance realization of human freedom and dignity in all the development processes. The effectiveness of development may be evaluated and valued against the normative content of human rights, which defines the quality of human life. Below is a table of selected human rights, their normative content, which could serve as effective guide for analysis, design, direction and assessment of development initiatives, plans, policies and programmes particularly on poverty.

TABLE NO. 4 - NORMATIVE CONTENT OF HUMAN RIGHTS⁴³

RIGHTS	CORE CONTENT	BASES
Right to Life	The supreme and inherent human rights from which no derogation is permitted, even in time of war or public emergency. Whereas it begins at birth according to International Law, it begins at conception in the Philippine Law.	Article 3 of UDHR; Article 6 of ICCPR; General Comment 6, HRC (1982); Article 5(b) of ICERD; Article 6 CRC; and Section 1 Article III of the 1987 Philippine Constitution
Equality and Non-Discrimination	This includes substantive equal protection of the law and enjoyment of all civil, political, economic, social and cultural rights. Its most important element is the distinction, exclusion, restriction, preference or prohibition of discrimination based on race, color, sex/gender, language, disability, descent, age, religion, political or other opinion, national or ethnic/social origin, property, birth or other status which has the effect or purpose of impairing/nullifying the recognition, enjoyment or exercise of human rights	Equality: Article 7 of UDHR; Article 3 of ICESR; Article 3 of ICCPR; Article 8(1) of the Right to Development; Article 5 of ICERD; Article 9&15 of CEDAW; Section 1 Article III of the 1987 Philippine Constitution; and Non-Discrimination: Article 7 of UDHR; Article 2(2) of ICESR; Article 2(1) & 20(2) of ICCPR; Article 6(1) of the Right to Development; Article 1,3&4 of ICERD; Article 1,2,4&7 of CEDAW; and Article 2 of CRC.

RIGHTS	CORE CONTENT	BASES
Political Rights and Freedoms: Right to Participate in Government, Freedoms of Opinion and Expression, Freedom of Movement, Right of Peaceful Assembly and Association	These may be exercised directly or indirectly, individually or collectively but must be free, genuine exercise, and voluntary. - Take part in the government directly or indirectly through freely chosen representatives; equal access to public services; and the will of the people as basis of government authority - Freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers - Freedom of movement and residence within the borders of state, leave any country, including his own and return to his country and shall not be subject to any restrictions except those which are provided by law, consideration of national security, public order, public health or morals or the rights and freedoms of others. - No restrictions on the exercise of this right to peaceful assembly to include right to form and join trade unions for the protection of his interests except those in conformity	Right to Participate in Government; Article 21 of UDHR; Article 5 of ICERD; and Section 16 Article III of the 1987 Philippine Constitution; Freedom of Opinion and Expression; Article 19 of UDHR; Article 19 of ICCPR; Article 5(d) (viii) of ICERD; Article 12&13 of CRC; Section 4 Article III of the 1987 Philippine Constitution. Freedom of Movement: Article 13 of UDHR; Article 12 of ICCPR; Section 6 Article III of the 1987 Philippine Constitution; Right of Peaceful Assembly and Association; Article 20 of UDHR; Article 20&21 of ICCPR; Article 5(d) (ix) of ICERD; Article 15 of CRC; and Section 4 Article III of the 1987 Philippine Constitution.

RIGHTS	CORE CONTENT	BASES
	with the law, in the interest of national security or public safety, public order, public health or protection of rights and freedoms of others	
Right to Social Security	This is a right to security in the event of unemployment, sickness, disability, widowhood, old age or lack of livelihood in circumstances covering all risks involved in the loss of the means of livelihood or subsistence for reasons beyond a person's control	Article 22 of UDHR; Article 9 of ICESCR; General Comment 5&6 ICESR (1994/1995); Article 8(1) of the Right to Development; Article 11 (e) of CEDAW; and Article 25 of CRC
Right to Work	This right covers: free choice of employment; just and favorable conditions of work; protection against unemployment; equal pay for equal work, just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity; to form or join trade unions for the protection of his interests; equal opportunity to be promoted in employment; rest leisure and reasonable limitation of working hours, etc.	Article 23 of UDHR; Article 6,7&8 of ICESCR; Article 8(1) of the Right to Development; Article 5(e)(i)(ii) of ICERD; Article 11 of CEDAW; Article 32 of CRC; and Section 3 Article XIII of the 1987 Philippine Constitution.
Right to Health	This is a right to access and enjoyment to health services and facilities, and to enjoy certain social conditions favorable to the highest attainable standard of health. Such right considers: availability in terms of functional health services,	Article 25 of UDHR; Article 12 of ICESCR; General Comment 14 ICESCR (2000); Article 8 of the Right to Development; Article 5(e) (iv) of ICERD; Article 12 of CEDAW; Article 24 of CRC; and

RIGHTS	CORE CONTENT	BASES
	programs and facilities: accessibility in terms of information availability, physical and economic accessibility, cultural appropriateness and respectful of medical ethics and quality in terms of scientific & medical appropriateness.	Section 11, 12, &13 Article XIII of the 1987 Philippine Constitution.
Right to Food	This covers availability, adequacy and physical and economic accessibility of food supply, and the stability of the supply. In addition, it is not limited to calories, proteins and specific nutrients. Likewise, it is linked to sustainability not only for the present but also for the future generations.	The normative bases are: Article 25 of UDHR; Article 11 of ICESCR; General Comment 12 ICESCR (1999); and Article 8 of the Right to Development.
Right to Housing	This refers to the right to live somewhere in security, peace and dignity. Its core contents include the legal security of tenure, availability of infrastructure, facilities, materials and services, affordability, habitability in terms of space, protection and safety against structural and health hazards, accessibility, location, and cultural adequacy	Article 25 of UDHR; Article 11 of ICESCR; General Comment 4 of ICESCR (1991); General Comment 7 of ICESCR (1997); Article 8 of the Right to Development; Article 5(e) (iii) of ICERD; Section 9&10 and Article XIII of the 1987 Philippine Constitution.
Right to Education	Availability of Functioning educational institutions and existing programs in sufficient quantities; trained teachers; non-discriminating; physically and economically accessible; acceptable in terms of quality, cultural	Article 26 of UDHR; Article 13 of ICESCR; General Comment 11 of CESC (1999); General Comment 13 of CESC (1999); Article 8(1) of the Right to Development;

RIGHTS	CORE CONTENT	BASES
	appropriateness; and flexibility and relevance. It also includes the right to free universal primary education, secondary higher, fundamental, technical and vocational educations. The government is also required to set up school system and to respect educational freedom, such as freedom of parents/guardians to choose the school for their children, and right of foreigners to set up schools.	Article 5(e) (v) of CERD; Article 10 of CEDAW; Articles 28&29 of CRC; and Article XIV of the 1987 Philippine Constitution.
Right of Reparation	This is an inherent right associated with an effective protection of human rights for the purpose of relieving and affording justice to victims. The victims can seek redress for human rights violations through restitution, compensation, rehabilitation, and non-repetition.	Article 8 Universal Declaration of Human Rights; Article 2(3a-c) ICCPR; Article 5, Declaration on the Right to Development; Article 6, CERD; Articles 4 and 39, Convention on the Rights of the Child

Implementation of Human Rights Obligations and Entitlements

This is the third important element of the HRBA, which covers the implementation of obligations and entitlements that apply to duty-bearer and claimholders respectively. Human Rights always imply human duties and responsibilities.⁴⁴ In a conceptual sense, claimholders are all people, men, women and children regardless of any other considerations, identified in situations where their fundamental rights are being affected. On the other hand, duty-bearers are those with responsibilities in the realization of rights. Traditionally, this role is identified with the state. However, in terms of the human rights approach, the issue of who is the duty –bearer has expanded to include both the state and the non-state actors, referring to the private or business sector.

1. State obligations⁴⁵

State obligations emanate from the national and international human rights framework. They are based from the Constitution and from ratified international human rights treaties. Duties are both positive (relating to acts of commission and negative (relating to acts of omission. State obligations require a particular conduct now immediately and also the attainment of certain results over time “progressively”. Civil and political rights are usually referred to for immediate compliance whereas economic, social and cultural rights are identified for progressive realization. However, this distinction does not necessarily hold. All human rights apparent imply immediate obligations, and also obligations to attain certain results over time

Individuals can demand government to comply with its human rights obligations, which have three levels: obligation to respect, obligation to protect and obligation to fulfill. These levels of obligations go with two levels of compliance: immediate and progressive. The concept of “progressive realization” implies the obligation to prove progress as the state is under obligation to take stapes to the maximum of its available resources and by all appropriate means, with a view to achieving progressively the full realization of rights.

In addition, state obligations require both conduct and results. Obligation of conduct means that a state has to undertake a specific step (act or omission. Obligation of results means the obligation to attain a particular outcome through active implementation of policies and programs.⁴⁶

State obligations exist at three levels or commonly referred to as “Levels of State Obligations”. These are: Respect, Protect and Fulfill. Obligation to Respect means that the state should not directly violate the rights of the citizens. Obligation to protect means that the state should protect its citizens from violations committed by others. Obligation to Fulfill means that the state should facilitate and promote the full exercise of rights by its citizens, becoming a direct provider in exceptional circumstances.

The obligation to fulfill has two dimensions:

- a) Obligation to facilitate or promote implies that the state should remove all obstacles, which impede disadvantaged groups to enjoy opportunities that are available to others. This means that the state should take all the necessary measures to “facilitate” as much as possible the rights of individuals by ensuring real opportunities for people to exercise their rights fully. This requires states to adopt appropriate legislative, administrative, budgetary, judicial, promotional or other measures toward the full enjoyment of rights by all.

- b) Obligation to be the provider means that individuals or groups are unable to realize their rights by the means at their disposal for reasons beyond their control and thus states have the obligation to directly provide.

2. Obligations of Individuals

“Freedom and equality” require responsibility and solidarity. Responsibility means the legal exercise of human rights. Solidarity ascribes to economic and social rights and its application to redistributive policies. Most of the time, this refers to duties towards the community and towards the vulnerable and disadvantaged sectors. Over and above the general duties of individuals to respect, protect and promote human rights, their duties are also of two kinds as follows:

- a) To exercise their Rights – Individuals must exercise their rights responsibly. Most human rights establish certain limitations to ensure rights and duties go together especially when the welfare of the community and the rights of others are concerned and thus, preserved.
- b) To exercise duties to others and the community - At the very foundation of human rights is the conviction that because every one of us human beings is sacred, every one of us bears certain responsibilities to every one of us”.⁴⁷ This means that human rights are attentive to right and wrong. It cares about what happens to other people for no other reason except their being humans. Thus, individuals ought to promote and observe human rights and also has duties to the community because it is only in solidarity with the community that individuals will be able to achieve their full development.

3. Obligations of the International Community - The member states comprise the United Nations Organizations. Individually and collectively they are bound to comply with human rights obligations as provided in the UN Charter. Therefore, development assistance is not charity but obligation of the international community and of the members. Hence, solidarity which is encouraged voluntarily is an international human rights obligation.

From this discussion of concepts of obligations and entitlements could be derived the role that both the duty-bearers and claimholders perform in development. They are in fact the doer and the actors in development. This meant that certain accountabilities, duties and responsibilities are essential to the development process.

B. Implications of HRBA in Good Governance

A Case Study on the connection between human rights, good governance and sustainable development was conducted by the Commonwealth of Australia the case study reveals that good governance is achieved under a democratic political system in which the actions of all three sectors contribute to the good of society. It is most likely to occur when the government sector has high quality public sector institutions and when the nation has a strong civil society. Good governance and human rights develop together. A truly democratic government cannot occur unless individuals have guaranteed civil and political rights. This means they can freely express their views without fear of being arrested, tortured or discriminated against. Civil society is about people contributing to the governing of their country through their participation in the community. It is difficult to participate if you are poor, unemployed, hungry, homeless and uneducated. People who live under these conditions are being denied their economic, social and cultural rights. Good governance cannot truly occur until these rights are guaranteed by a government willing to take responsibility for the social security of its people. Investing in people through good governance means creating a skilled workforce that will capacitate them into having access over their right to productive assets that will help them improve themselves. This cannot occur unless basic economic and social human rights are met including the right to adequate education, health services, food, and shelter. A government which does not manage its economy well will not have enough resources to guarantee basic human rights. However, if these rights are not met it is difficult to create the accountable and transparent institutions so vital to good governance and to sustainable development.⁴⁸

Understanding governance, its beginnings, concepts and processes is a prerequisite to figuring out the possible implications of the HRBA and its future direction in the context of Public Administration specifically in governance. Such review of the beginnings, purposes, actors and their roles and the processes of governance, are significant in relation to how governance is viewed in the perspective of the HRBA.

Emergence of Governance

In order to appreciate better the implications of HRBA in good governance, there is an imperative need to revisit the beginnings and the evolution of governance concepts over three decades, which was a long struggle of transforming governance into so-called good governance in connection with making governance processes more accountable, transparent, participatory, efficient and effective, equitable and follows rule of law.

Governance as a concept and a practice was precipitated by series of societal conditions. Governance did not come out from a vacuum. It was a response to existing societal phenomenon from the 1970s, 1980s and 1990s. Governance is a new paradigm, a model or a project during this period of world history. The meaning of the use of the word paradigm here refers to the concept of Thomas Kuhn during the early 1960s, which he discussed in his celebrated essay *The Structure of Scientific Revolution* (1962). Governance, which was made to respond to pressing realities of the 1970s, did not bear

any revolutionary character but a developmental one that helped fragmented, disarticulated and weak states in managing the democratic polity.

The developmental stage of governance involves “*a transition from “Government to Governance”*”, which has remarkable changes in the relationships and operations of the different stakeholders of society. The realities surrounding the emergence of governance are tackled specifically in industrialized countries. It explains the conditions that typified the period, which was marked by economic depression and stagnation, harshness in mandatory implementation of austerity measures gradually disintegrating the welfare state, derogation of unemployment insurance schemes, the privatization of pension fund, social services and decline of social security.⁴⁹ Michel Chossudovsky in his article on “*The Global Poverty in the late 20th Century also accounted for the breakdown of the welfare state during the early 1990s in the ghettos of America and increasingly in Europe that gave rise to social strife and civil dissent, with governments perceived to be encroaching into individual liberties and also, perceived to be losing credibility to run the democratic polity. One aggravating condition was the post cold war marred by economic collapse in parts of Eastern Europe, which had tremendous impact on earnings, employment and social services due to hyperinflation and privatization that triggered massive lay-offs of millions of workers in the affected industries.*”⁵⁰

Based on the conditions described above, there came about the so-called “*the rise of hollow states*” referring to disarticulate and fragmented states. As Donald Kettl (2000) said *Governments in the 1970s, 1980s and 1990s became less hierarchical, more decentralized and increasingly willing to cede their role as dominant policy actor to the private sector.*” There was at the time an ongoing management reform movement that varies across the globe and between nation-states. He asserted that the “*management reform centered on six core issues such as: how government can do “more with less, government leveraging market mechanisms, connecting government with citizens, decentralization and devolution and bringing the process closer to the people, improving government’s capacities to create, implement and administer public policy and making government more accountable to what it promises to do* (Kettl 2000, 1-2).”

Obviously to cope with pressures at all economic, social and political fronts, government engages in practices such as contracting out public service provision for the purpose of reducing its role as direct supplier of public goods (Provan 2000b, 240) and handling public policies & programs administered thru states, regions, special districts, service delivery areas, local offices, non-profit organizations, collaborations, networks, etc (Lynn, et al 2001, 1). As a consequence, government that used to be strong is weakened and seen to be incapable of governing as it had in the past. Thus, *the traditional concept of government as a controlling and regulation organization for society is argued to be outmoded* “(Bekke, Kickert, and Kooiman 1995).

Within the management reform movement was a debate about governance: *What should government do? How can it best accomplish these goals and what capacity does it need to do it well?* The discussion and debate about governance depend on the histories, institutions and political differences of nation-states. This debate largely occurs in

Europe, primarily in the United Kingdom and Netherlands focused on the argument on “*Governance without Government*.” Bekke, Kickert and Kooiman (1995) postulate that the traditional concept of government as a controlling and regulating organization for society is argued to be outmoded but the preeminent role of government in welfare state in Europe made it more resistant to the perspective of governance. Governments in this part of Europe are basically centralized and therefore, have much more to lose in terms of power and involvement in public policy making and implementation. In the United States, the debate on governance was much less. Its government is decentralized and there is inter-governmental sharing of responsibilities on policy concerns among the local, state and national government.⁵¹

Approaches of Governance and its Relevance to Human Rights

On the basis of the varied definitions of Rhodes on governance, this study would attempt at discovering what definition/s would functionally work compatibly with human rights if and when the approach has prospect of being broadly applied in governance and public administration.⁵²

The three theoretical approaches of Governance include the following: that Governance is Public Administration of expanded scope, that Governance is new Public Management and Governance is the repositioning or the conjunction of Public Administration.

As herein discussed, the approaches present the different forms of responses of states to changing societal changes and conditions under the language “Governance”. However, not one approach is conclusive to have the monopoly of understanding governance.

For instance, governance under the first approach was interpreted to mean the expanded form of public administration. Represented by an equation developed by Lynn et al. (2000, 15), governance was featured as the summation of environmental factors, client characteristics, core processes and treatment used, structure involving integration and coordination and the leadership and managerial roles and actions. This model was viewed useful in terms of empirical research on governance but not necessarily representative of a coherent theory of governance.

The second approach described governance closer to the New Public management (NPM) in so many ways as described in Table 1 but their basic differences stood out in respect to their respective goals. NPM is corporatizing the public sector while governance is purely engaging the stakeholders into multi-jurisdictional relationships and processes. Meaning, it defines the interaction and relationship between and among the principal actors of governance, without attempting to change the culture and inherent characters of the actors, namely: government, private sector and civil society.

Finally, the third approach defines the repositioning and changing Public Administration under the intellectual label “Governance”. The approach focuses on administrative

conjunction, which co-exists with hierarchical arrangements of organizations. Mutual cooperation and agreements define the multi-jurisdictional relationships and processes of different networks managements. Such that while jurisdictional borders exist, they become less relevant among organization networks compared to meaningful representations of public interest.⁵³

In the context of HRBA, the theoretical approaches of governance worked compatibly with the approach. All the approaches point to transforming the functioning of governance institutions and processes that would serve public interest and welfare of the constituency. HRBA is a response to societal demands that would enhance the improvement of the quality of life of the people in the context of larger freedoms and exercise of rights. This works compatibly with governance, the purpose of which is to make institutions and organizations serve public interests to work well in cooperation with one another. HRBA even adds dimension to the roles that principal actors of governance play. Under HRBA, the role of the State as an actor of governance is further enhance through the performance of human rights obligations under the international human rights treaties. The private sector's role as well, is strengthened with its identification as the non-state actors with obligations to fulfill human rights. The civil society, which is a network of institutions and organizations representing different stakes and interests in governance have duties and responsibilities under the international human rights framework specifically in ensuring that HRBA would work.

*Concepts of the New Governance Paradigm*⁵⁴

HRBA, which involves multi-sectoral approach to approaching community problem solving at the local and national level, policy and program level and at the institutional and network level would work well in the new governance paradigm. The paradigm on new governance proves to be useful in public action. Lester Salomon (2001) contends that a new era of public problem solving has dawned in many parts of the world. Under such era, a host of actors are being mobilized instead of relying exclusively on government to solve public problems. The traditional conceptions of Public Administration have been rendered irrelevant and the traditional notions of public and private responsibilities are rendered obsolete. A conceptualization called “new governance” acknowledges the complex of networks of interaction that characterize the recent efforts to handle public problems that focuses on wide array of tools and diverse networks of institutions being activated in the process rather than the old rigid hierarchies in public administration. Salomon presents new dimensions and novel attributes of the “new governance” approach to public problem solving that involved non-government organizations.

This trend in New Governance paradigm is demonstrated in the following case. Banerjee, et al (2005) who authored this case *The Nijera Kori Experience in Bangladesh*⁵⁵, cited some human rights practices to secure land rights for the poor and vulnerable group in Bangladesh. This involves the initiative of the Nijera Kori, a non-government organization that work with poor and vulnerable groups of landless people.

They started their involvement in areas that are densely populated by the poor who basically rely on the sale of their physical labor for livelihood. These areas fell in the vicinity of the seacoasts and river basins and other specific areas where most inhabitants are slum dwellers, weavers, blacksmiths, tobacco and sugarcane farmers and the like.

The Nijera Kori focused on the application of socially and politically empowering strategies that are rights-based. They concentrated on the vulnerable groups, collective capacity building using participatory approaches and social mobilization strategies that promoted equity and non-discrimination. They have successfully undertaken the formation of landless groups, capacity development of these landless groups and adoption of social mobilization strategies that harnessed collective capacities and empowerment in the forms of economic activities, cultural activities and advocacy activities. These landless groups were successful in accessing education, accessing livelihood opportunities, regaining lands from illegal usurpers, fighting against some societal irregularities, responding to gender issues and gaining representations in government committees and community affairs.

From agency and program to Tool

The new governance paradigm builds on the rich history of Public Administration. It is a synthesis that brings to better focus responses to the prevailing realities. On the basis of the societal circumstances under which new paradigm emerged, Governance is regarded as a new approach that shows a shift in the unit of analysis in policy analysis and public administration from the public agency or the individual public program to the distinctive tools or instruments through which public purposes are pursued. With the varied conditions and demands of society, such instruments have mushroomed in number and scale in recent decades. It has altered the nature of public management and the pattern of problem solving in various ways, but ways that are only partly acknowledged in existing theories and approaches. New governance takes a significantly different approach. Rather than seeing programs as sui generis, it finds commonalities flowing from the tools of public action that they employ. It thus shifts the unit of analysis from the individual program or agency to the distinctive tools of public action that program embodies. Underlying this approach is the notion that the multitude of different government programs really embody a more limited number of basic tools or instruments of action that share common features regardless of the field in which they are deployed. Whenever governance works, these tools define the set of actors that will be part of the cast during the all important implementation process that follows program enactment, and they determine the roles that these actors play. Since these different actors have their own perspective, ethos, standard operating procedures, skills and incentives, by determining the actors the choice of tools importantly influences the outcome of the process.

In this sense, HRBA could be regarded as one of these many approaches and tools that proliferated in order to provide alternative methods and tools for public action both at the program and project level. The HRBA defines the role of the three governance actors, namely the government, private sector and civil society differently based on the levels

and standards of human rights obligations and entitlements required for a particular public action, program or project.

One case using HRBA as an alternative tool for public action is demonstrated in the UNESCO-Initiated Education for peace and Development Project in Kampo Province, Cambodia. This initiative is in response to the collapse of South East Asia's most progressive education system together with the killing of the country's educated class during the Khmer Rouge regime. As documented by Bajernee, the project is a UNESCO sponsored project "Conflict prevention and Resolution through Education – Education for peace and Development" in 18 villages in two communes (Trapeng Phleng and Taken) in the Koh Sla region in Kampot province. The project is centered on the right to information designed to achieve a long term goal of building a culture of peace in the communities by preventing conflict in both the domestic and community spheres. Components of this project include enabling children to access non-formal education, helping communities realize the value of a culture of peace, empowering communities through vocational skills and partnership and helping support equitable process for gender empowerment.

The rights-based strategies used include training of stakeholders' capacities, enlisting stakeholders' participation, using, using a local civil society agency to help build inroads, using radio as means for development communication, using the community learning centers as a forum for participation and documenting process outcomes on the capacity and role of duty bearers in addressing demands and monitoring to ascertain rights-based outcomes from the rights-based strategies.

In governance, there is no division between policy and administration assumed in the classical theory. In practice such division does not work. The process of program design does not end with legislative enactment but rather continuous into the implementation phase as well. The decisions in this stage of the process shape which actors have significant roles. Thus, by shifting the focus from agencies or programs to underlying tools, the new governance provides a way to get a handle on the post enactment process. Tool choices significantly shape this process that affect results. Tool choices are not just technical decisions. They are profoundly political. They give some actors some perspectives, an advantage in determining how policies will be carried out. The choice of tools to be used determines which interests will be more advantaged as a result. What is at stake here is not only the most efficient way to solve particular public problem but also the relative influence that various affected interest will have in the post enactment evolution. As further contended by Salomnon (2001), in the US tool choices is strongly pro-market bias. In the UK, tool choices are more favorably inclined toward the state. If tools are fundamentally political choices, they are also operational choices that have significant implications for the management of public affairs. Different tools require different management skills and knowledge. Generic management skills should be supplemented with skills peculiar to the various tools employed.

HRBA provides diverse tools that helps in defining not only the roles of governance actors, but more importantly, in assessing the strengths and weaknesses of these actors in

realizing particular obligations and entitlements that could be applied to public action that would enhance governance towards improving the quality of life of the constituencies.

From Hierarchy to network

HRBA works through a network of institutions as well. These networks comprise a network of governance actors agreeing to work in collaboration with one another based on obligations and entitlements set to be realized. Under the new governance, network theory operates, which has four characteristics:

1. Pluriformity – engages a diverse range of organizations and organizational types, many of which have limited experience cooperating with each other and limited knowledge of each other's operating style.
2. Self –referentiality – involves different actors who in fact, have their own interest and frame of reference and therefore, approaches the relationship with a different set of perspectives and incentives
3. Asymmetric interdependencies – suggests that even when all parties want the same thing, they still may not be able to cooperate fully because they may not all want it with the same urgency in the same sequence or at the same time and therefore, rarely perform in symmetrical way.
4. Dynamism – changes over time as the network carry out its mission

The dynamics involved in HRBA promote the same characteristics of this new paradigm of governance. The only fix pattern in HRBA is realizing rights through the defined roles of the governance actors. All the other aspects of governance related to pluriformity, self-referentiality and asymmetric interdependencies and dynamism could operate in governance that uses HRBA.

From public vs. private to Public and private

Cross-sectoral relationship can be achieved for effective public problem solving. New governance does not recognize sharp division between the public and private sphere. While they retain individuality, collaboration replaces competition highlighting on the complementarities that exists among the sectors. HRBA implies that complementarities that exist among the sectors are based on human rights principles, human rights standards, implementation of State obligations and empowerment of people for securing rights entitlements.

From Command and control to negotiation and persuasion

Given the pervasive interdependence that characterizes such networks, no entity including the state is in a position to enforce its will on the others over the long run. Negotiations and persuasion replace command and control. Not only in setting up policies but also in implementing them. Instead of issuing orders, public managers must learn how to create incentives for the outcomes they desire from actors over whom they have only imperfect control. HRBA softens the imposition of international human rights standards. While its intention is not to compromise human rights, it engages different governance actors, especially the State into some kind of process whereby it would recognize the respect, promotion and fulfillment of enforceable accountabilities under the international human rights framework. There are enforceable rights that HRBA would promote in terms of immediate compliance and others in terms of progressive realization for instance, through development programming.

From Management Skills to Enablement Skills

HRBA is basically a process of capacity building for both the duty-bearers and claimholders involved in the governance process. As such, the approach works well with the thrust of this new governance paradigm, which requires enablement skills. These are:

1. Activation Skills which can be performed by any actor involving a sense of responsibility for activating problem solving networks;
2. Orchestration Skills – An enabler rather than a doer; and
3. Modulation Skills - the sensitive modulation of rewards and penalties in order to elicit cooperative behavior from the interdependent players. Excessive use of authority can backfire if partners choose not to play

*Contemporary Governance*⁵⁶

Contemporary governance aims at democratizing governance, which is exactly the objective of HRBA, which is that of ensuring the constant development of the people in larger freedoms and exercise of rights. There is a rich literature on contemporary governance which points to the increasing significance of networks and partnerships. The more significant literature include: a) governance studies that elaborates on the interrelationship of three governance structures: markets, hierarchies and networks (Rhodes, 1999); b) governance structures that are characterized by more open boundaries that are intermingling with one another with emphasis on varieties of public private and voluntary organizations working together through networks, with initiatives such as public -private partnerships 'at the core of the coordination repertoire' (Jessop, 2000: 31-2). The state still has powerful policy levers and agenda-setting capabilities that operate through the hierarchies at its disposal, but governmental action is often 'highly contingent upon the actions of others' (John and Cole, 2000: 8 2).

Governance necessarily involves questions of authority and legitimacy whenever it delves on concerns involving co-ordination and prioritization of actions, resources, values and purposes. There are two types of open governance: a) organic governance and b) organic governance which emerges from the theoretical work below. Theoretical work incorporates Weber's typology of domination within a more broadly-based set of legitimacies of co-ordination, including the notion of interior authority, which is especially important for contemporary forms of governance. Interior authority is then explored further through the idea of identity orientations, which enable agency, and the notion of substantive liberty.

The perspective on human agency reflected in this exploration acknowledges the interconnection of the social and non-social and links the sociological task of understanding agency with persistent philosophical issues in political philosophy concerned with freedom and welfare. It is suggested that this theoretical work helps give content to Weber's concept of inner distance and, that following from this, there are implications for our understanding of what is involved in democratizing governance.

*Changing Role of State in Governance*⁵⁷

Governance model has dominated public policy. The assertion is that these amorphous collections of actors—not formal policy-making institutions in government—control policy. State agencies may place some imprimatur on the policy, so the argument goes, but the real action occurs within the private sector. Further, in the more extreme versions of the argument, if governments attempt to impose control over policy, these networks have sufficient resiliency and capacity for self-organization (1) (Kooiman 1993; Marsh and Rhodes 1992; de Bruijn and ten Heuvelhof 1997) to evade the control of government.

It long has been argued that the private sector has real influence over public policy through structures with varying degrees of formality, but this conception carries the argument to that of dominance. This dominance is possible partly because the State has become de-legitimated. The loss of legitimacy is in part because state actors are excessively clumsy, bureaucratic, and path dependent and in part because of the control of information and implementation structures by private actors. It appears that whatever the State does it does poorly, while the private sector (for profit and not for profit) is more effective.⁵⁸

In the governance arguments, the State does not become totally impotent; rather, it loses the capacity for direct control and replaces that faculty with a capacity for influence. Government actors are conceptualized as in a continual process of bargaining with the members of their relevant networks. What has changed, however, is that these government actors now bargain as relative equals rather than as with the capacity to resort always to power if the decision that is made is not what they want.⁵⁹

Government organizations remain a part of the networks in these emerging models of governance but they are conceptualized as dependent on the other actors to the same

extent that those actors are dependent on government. This mutual resource dependency (Rhodes 1988) at first characterized the relationship between central governments and sub-national government, but the argument has been extended to cover the gamut of relationships between central government organizations and the other organizations with which they interact.

The blending of public-private resources is achieved through the use of network. This may be done through formal partnerships between actors in government and actors in the private sector. These partnerships permit each side to use resources that would not be at its disposal was it to remain on its own side of the (presumed) divide between the two sectors (Peters 1998).

This perspective of governance is essential in so far as the demands of HRBA are concerned. Under HRBA, human rights standards would have to be progressively realized in the realm of policy making, programming and even project implementation. Resources of government are scarce and would require catalyzing the generation of other resources to get implemented.

Challenge confronting Government in “New Governance”⁶⁰

HRBA is one method and tool that could help governance faces up to its challenges under the new era of governance. As kettle postulates not only must government devise new strategies for managing public programs effectively in a globalized and devolved policy world, it must also build the capacity for doing so. As generally observed, most government bureaucracies remain structured and staffed to manage traditional direct programs through traditionally structured and staffed bureaucracies. As the government's strategies and tactics have changed, its structures and process--especially its personnel and support systems have not. The idea is not to abandon the traditional model. It only means making it possible to adapt effectively with the horizontal networks that have been layered on top of the traditional vertical system. Thus, the first governance challenge is adaptation: fitting traditional vertical systems to the new challenges of globalization and devolution, and integrating new horizontal systems to the traditional vertical ones.

The second governance challenge is capacity: enhancing government's ability to govern and manage effectively in this transformed environment. Again HRBA is one method and tool to help enhance the capacity of government to respond to societal demands for economic, social, political and cultural development. For a century, hierarchical authority has provided the intellectual foundation of public administration. It has also provided the foundation for delegation of power to the bureaucracy in exchange for a mechanism of accountability. Because both globalization and devolution scramble these foundations, they demand that government create new strategies for effective management and accountability. HRBA provides this kind of new strategy to achieve more accountability in governance that is non-hierarchical but network based that is premised again, on human rights obligations and entitlements relevant and applicable to specific governance actors.

*Good Governance as Donor Parlance*⁶¹

In the aspect of good governance, different views about it evolved among development partners. Martin Doornbos (2003) posits his views on so-called good governance. He said that notions of good governance and political conditions coupled with series of interlocking policy criteria and initiatives have been prominent in the development aid front over many decades. As he elaborated and traced from the post-Cold War era such policy and political conditionalities has increasingly becoming apparent that these expectations were rather overstretched. Posing political conditions to induce good governance did not work over time. As a result, the particular ensemble of donor policy concepts and instruments associated is now reconfigured.

He contends that new kinds of donor-recipient relations are increasingly being accepted. Donors consider foremost a comprehensive sector program that should be put in place through detailed contractual agreements with selected countries. Good governance remains part of donor parlance, but with less ambitious expectations on the scope for intervention and political restructuring that were set as conditionality before. Since the application of the HRBA was started, it has always been supported by donors or so-called development partners under their portfolios on democratic governance. It would seem that this trend would continue until the HRBA gets adopted as a State policy to implement the international human rights treaties.

Link between Human Rights and Good Governance

Governance is the process whereby public institutions conduct public affairs, manage public resources and guarantee the realization of human rights. Good governance accomplishes this in a manner essentially free of abuse and corruption, and with due regard for the rule of law. The true test of "good" governance is the degree to which it delivers on the promise of human rights: civil, cultural, economic, political and social rights. The key question is: are the institutions of governance effectively guaranteeing the right to health, adequate housing, sufficient food, quality education, fair justice and personal security

The concept of good governance has been clarified by the work of the United Nations Commission on Human Rights. In its resolution 2000/64, the Commission identified the key attributes of good governance as: transparency, responsibility, accountability, participation and responsiveness (to the needs of the people).

In support of the international trend of linking human rights and good governance, Christopher McCrudden (1998) of the University of Oxford produced a paper on mainstreaming of human rights in policy making. As he posited the advent of the Human Rights Act 1998 has significantly increased consideration of how best to ensure the effective delivery of human rights in the United Kingdom. In his paper he examined an additional mechanism, the "mainstreaming" of human rights in governmental decision-making, which may help to address some of the limits of existing approaches to human rights compliance. By "mainstreaming," he meant the reorganization, improvement,

development and evaluation of policy processes, so that a human rights perspective is incorporated in all policies at all levels and at all stages, by the actors normally involved in policy-making. His discussion of the issue reaches the conclusion that mainstreaming human rights is a desirable policy but that there is a need for considerably more discussion as to the most effective practical means of achieving this and that some methods that have been suggested might be counter-productive. He attempted to draw out some of the issues that need to be considered in adopting mainstreaming. In particular, the applicability of existing approaches to equality mainstreaming to human rights is examined.

Resolution 2000/64 expressly linked good governance to an enabling environment conducive to the enjoyment of human rights and "prompting growth and sustainable human development." In underscoring the importance of development cooperation for securing good governance in countries in need of external support, the resolution recognized the value of partnership approaches to development cooperation and the inappropriateness of prescriptive approaches.

By linking good governance to sustainable human development, emphasizing principles such as accountability, participation and the enjoyment of human rights, and rejecting prescriptive approaches to development assistance, the resolution stands as an implicit endorsement of the HRBA.

*Citizenship Rights in Governance*⁶²

Discussed in the literature of Hague (2003) are the evolution of citizenship rights, the recognition of social rights--e.g., citizens' rights to employment and income, decent living standards, and basic services like education and health have emerged largely after World War II in response to increasing clamor for those rights. In the developing world, the realization of social rights became indispensable due to the urgent need for providing basic services to low-income citizens. In general, the two major domains of citizenship rights include the citizens' political rights (rights to free speech, political participation, and political position) and their social rights (rights to economic security and basic services). The Universal Declaration of Human Rights (1948) recognizes each individual's right to freedom, liberty, equality, justice, education, employment, and so on. In developing countries like those in South Asia, the post-independence period saw the emergence and expansion of these basic citizenship rights guaranteed by their constitutions. However, the realization of these citizenship rights often depends on the nature or mode of governance prevailing in the country.

Hague (2003) exhaustively elaborated on this phenomenon in South Asia. He contended that the state played a critical role in generating income, creating jobs, and ensuring people's access to basic education, health care, transport, and agricultural inputs, which led to the expansion of the public sector. Although many public agencies delivering subsidized basic services, suffered from fiscal difficulty and administrative mismanagement, they aimed to fulfill the entitlement of poorer citizens to these basic

services. But in the current age of reinventing governance based on market principles, the citizens' entitlement to such service provisions has come under challenge due to new policies such as the privatization of public agencies, reduction in public expenditures, withdrawal of subsidies, deregulation of prices, and introduction of user fees, which have made these services too expensive and unaffordable to poor citizens.

Hague further explained the impact of a market-led reform on citizen's entitlements. He said, first, it is necessary to contextualize the severity of impacts of such market-led reforms on citizens, because it largely depends on their level of poverty or affluence--while citizens in affluent developed nations can usually afford to pay for basic services like health and education delivered by the private sector, the poor citizens in the developing world remain dependent on the state provisions of these services. This worsening situation of poverty is often attributed to market-led policies (e.g., privatization, deregulation, devaluation, retrenchment, and subsidy cut), which have allegedly benefited private firms and foreign investors but worsened unemployment, increased service charges, and perpetuated economic hardship among the rural poor

Second, a more direct explanation of the causal relation between poverty and market-led reforms is the increasing rate of public sector unemployment under these reforms that led to redundancy and retrenchment. Condition of unemployment caused by market-led policies has become even more serious due to other outcomes of these policies, including a decline in real wages, the rise of inflation, and an increase in consumer prices. [86] Thus, the overall social protection for the working class has diminished in South Asia due to market-driven public sector reforms.

Finally, the social protection and entitlement of citizens in South Asia have also come under challenge due to reduction in social sector budget and welfare subsidy under market-led reforms, which eroded the access of low-income families to basic needs such as education, health, safe water, nutrition, and housing.

The OXFAM GB Indonesia-Supported project initiated by JARNOP PP/FKIP⁶³ is one good example of a case to demonstrate citizenship rights in governance. As documented by Banerjee, the worldwide OXFAM GB takes a Human Rights-Based Approach to addressing the root causes of poverty. By definition, poverty as used by OXFAM GB goes beyond purely economic but includes capabilities, powerlessness and inequity. The initiative focuses on "voice poverty" referring to the denial of poor women and men's right to influence the decisions that affect their lives and the right to be heard, as its integral aspect. In context, 59% of the Indonesian population bases their livelihood on agriculture, where there is general lack of adequate policies and programs that hampers the plight of the farmers.

The OXFAM GB Indonesia and JARNOP PP/PKIP partnership is public-State participation with the passing of law No. 22/999 on Regional Governance and Law No. 25/999 on Fiscal Balance between the Center and the Regions that aims to transform the concept of decentralization and regional autonomy into reality. JARNOP-PP is a network of 30 NGOs working in Java advocating policy reforms at the national and local

levels. While the FKIP has a network of around 25 farmers' groups that comprise around 300 farmers working in all the 28 sub-districts in 4 provinces – Central java, West Java, Yogyakarta and East java. These groups advocate for fair rice price, cheaper prices for fertilizers and access to Government-imposed floor price for rice. The rights-based tools used to changing the power equation include the tool of participatory budgeting through public hearing, advocacy and lobby campaigns. The changes that occurred as a result of using the rights-based tools include: increasing of budgetary allocation for agriculture and irrigation sectors; formation of water users' group, focus of government to illegal sand mining; rescheduling of farmers' credit; monitoring of budgetary allocation made transparent and participatory; an gaining representation and membership of the JARNOP PP in the Agency for Food Security for continued policy advocacy for farmers.

Multi-level Definitions of Governance

From this theoretical evolution of Governance emerge other definitions and concepts of governance. R.A.W. Rhodes (1996) tackles seven definitions of governance as networks and gives interpretations of it from the social science viewpoint. These seven definitions approximate the different uses and practical application of the governance theory.

Governance has assumed different meanings: Governance as corporate governance argues for a more commercial style of management” to bring about different culture and climate” (CIPFA, 199: 6); as corporate governance focused on the market, participatory, temporary and regulatory state and discusses their effects (OECD, 1995); as good governance identifying the three strands to good governance to include systemic, political and administrative (Leftwich, 1993); as international development attributing to hollowing out of the state and multi-level governance in production, financial transactions, international organizations, international law and hegemonic powers and power blocks; as networks characterized by diplomacy, reciprocity, interdependence, self-organizing and inter-organizational (Rhodes, 1997b); as socio-cybernetic system governed by polycentric state with multiple centers with many and varied arrangements for coping with problems (Luhmann, 1982: xv); and as New Political Economy referring to governance as “the political and economic processes that coordinate activities and transforms institutions that govern economic activities focused on emergence and rearrangement of several institutional forms (Lindberg and Campbell, 1991).⁶⁴

On the other hand the United Nations Development Programme has contributed much to the development of governance. UNDP defines governance as “*the exercise of political, economic and administrative authority in the management of a country's affairs at all levels to include the complex mechanisms, processes and institutions through which citizens and groups articulate their interests, mediate their differences and exercise their legal rights and obligations.*”⁶⁵ This definition is very much attuned with how Lyn et al define governance. However, governance is not something that operates in a vacuum. It is a process that seeks to achieve a goal. On the part of UNDP, the goal of governance is “*to develop capacities that are needed to realize development that gives priority to the poor, advances women, sustain the environment and creates needed opportunities for*

*employment and other livelihoods.”*⁶⁶ The discussions on governance as a means for sustainable human development especially in market economies have begun only in the 1990s. Different international organizations had initially taken up governance in the realms of public sector management.

There is marvelous logic in discovering the concept of governance in these modern times. Indeed, it is an added value to the discipline of Public Administration to give credence to HRBA that focuses on how the doers and participants representing the different stakeholders of society within the perspective of so-called governance perform their rights and obligations in the pursuit of democratic goals and ideals. As implied, governance gives a sense of identity to the Public Administration discipline and practice in the context of how governance actors behave. They do behave through a process of cooperation, networking and collaboration for the purpose of maximizing the contributions, efficiency and effectiveness of all governance stakeholders in responding to societal issues and development. The culture projected by governance is not of competition in a winning or losing scheme, which is the basic character of the interaction of stakeholders in the practice of political science.⁶⁷

Except for the inclusion of economic governance, the rest of the three other types conform to the concept introduced by Leftwich (1993). As postulated by UNDP these types have distinct philosophies and goals in governance: economic governance influences societal issues in the areas of equity, poverty and quality of life through processes of decision making that directly or indirectly affect the country's economic activities and its relationships with other economies; political governance serves pluralism of the democratic polity and citizen empowerment and legitimate representation through the process of decision making and policy implementation of a legitimate and authoritative state; administrative governance by an efficient, independent, accountable and open public sector through a system of policy implementation; and systemic governance that warrants protection of cultural, religious beliefs and values through processes and structures of society to guide political and economic activities for the creation and maintenance of environment for health, freedom and human security and better quality of life for the people.⁶⁸

Domains of Governance and Changing Role of the Public Sector

On the whole HRBA could contribute much in further defining the domains of governance and the changing role of the public sector. As earlier discussed, governance has three main actors namely: state, private sector and civil society. Since governance deals with relationships and processes, it transcends borders and underscores cooperation, agreements, interaction and mutual interdependence. Borders among the three stakeholders have weakened. The concept of public sector has narrowed. Public as a term is more aptly used to describe the nature of goods and services produced. Any of the three stakeholders or combination thereof, may produce public goods and services. Under the governance regime different types of cooperation and collaborations

characterize the delivery of public goods and services. Consequently, any actor in governance sphere may contribute to the delivery of public goods and services resulting to the widening of the concept of what are public and what is not depending on whose interests, goods and services are delivered.

This is a favorable condition in the use of HRBA in governance. Very much related to addressing the problem of the study is putting HRBA in context. Thus, framework on the objectives and processes of public Administration and Governance will likewise be examined. This way, the prospect and future direction of HRBA may be formulated for its wider use and application not only in development programming or development and implementation of projects but also, achieving higher plane of goals in development and governance. Thus, readings on the theories and concepts of both Public administration and governance will be material to the pursuit of this study.

One interesting concern will be the implication of the HRBA in the concept of governance to include the emerging role of government and civil society with particular reference to human rights concepts of state obligations and accountabilities. Frederickson and Smith discussed rationally the shift in the purposes and methods of government. They described the reversing trend characteristic of post-WW II development as governments in the 70s, 80s and 90s became less hierarchical, more decentralized increasingly willing to cede their role as dominant policy actor to the private sector (Kettl 2000). They comprehensively identified the challenge that these changes pose to existing PA Theory.

They reviewed that traditionally, the “public” in public administration meant government and that as the traditional role of government changes and with its expectations about how the role is to be fulfilled; public administration is being forced to redefine and reposition itself both in applied practice and as a field of scholarship. They also rationalized the need for Theory of Governance? They deliberated Governance as currently more an acknowledgement of the empirical reality of changing times than it is a body of coherent theory.

In the book of Rhodes, he carefully made a review on the literature of governance in the context of the study of Public Administration highlighting the sociological view of governance and its seven definitions. He reiterated the general definition of governance as a blanket term reflecting a changing meaning of government (Jorgensen, 1993) March and Olsen, 1989) focused on the extent and form of intervention of government and the use of markets and quasi-markets in the delivery of public services.

Thus in seven ways, Rhodes defined Governance as follows: Governance as Corporate Governance – that describes more efficient government in the public sector bringing about a different culture and climate as those of business corporations; Governance as the New Public Management – referring to corporate management and marketization; Governance as “Good Governance” – underscoring a worldwide trend of defining three

strands to good governance as systemic covering the distribution of both internal and external economic and political power, political referring to enjoyment of both legitimacy and authority and administrative ascribing to an efficient, accountable and audited public service (p.611); Governance as International Independence – contextualizing governance in the hollowing out thesis that international interdependencies erode the authority of the state through the limiting of the authority of the states, the internationalization of production and financial transactions, international organizations, international law and hegemonic powers and power blocks (Held, 1991: 151); Governance as a Socio-Cybernetic System – defining governance as a result or the total effects of socio-political-administrative interventions and interactions (Kooiman, 1993b:258); Governance As the New Political Economy - re-examining the government in the context of the economy and the interrelationships between and among the stakeholders such as the state, the market economy and civil society; Governance as Networks – covering two approaches namely: power-dependence and rational choice. Hence, using these definitions of Rhodes on governance, what definition/s would functionally work compatibly with HRBA if and when the approach has prospect of being broadly applied in governance and public administration.⁶⁹

For purpose of this study, the focus is on good governance referring to the achievement of more participatory, transparent, accountable governance under a regime of rule of law.

Corporate Governance and Human Rights

HRBA as a method and tool for good governance could effectively enhance corporate governance involving the private sector. In the article prepared by Luke Wilde (2003) for the Business Leaders Initiative on Human Rights, June 2003 gave his operational framework on governance and human rights in business. He contended that, Governance includes concepts such as the manner of governing, the method of management, system of regulations, and mode of living, behavior, demeanor and wise self-command. Hence how companies themselves are governed – particularly in light of the recent high profile corporate failures in the United States - is in itself an important element of global governance and human rights concern. Corporate governance practices across the world are currently in the media and regulatory spotlight, for example with the recent ‘Higgs Report’ on the role of non-executive directors in the UKii and SaHRBAnnes-Oxley Act in the USiii. In the UK as elsewhere there is momentum towards mandatory social and environmental reporting and a group of NGOs including Friends of the Earth and Amnesty International are promoting revisions to company law to this effect. While not often formalized, the increasing emphasis given to stakeholder engagement and dialogue is another important development in corporate governance. Some companies have developed policies and implementation mechanisms relating to human rights including specific policies on issues such as bribery and corruption and political contributions.

Clarity on the obligations of businesses for human rights is under development. The June 2002 revision of the OECD Guidelines for Multinational incorporated the general statement that: “*Enterprises should respect the human rights of those affected by their activities consistent with the host governments international obligations and*

commitments.” The United Nations Sub-Commission’s Working Group on Transnational Corporations has sought to draw together international human rights law and best business practices regarding the human rights conduct of business into the draft ‘Norms of Responsibility of Transnational Corporations and other Business Enterprises with respect to Human Rights’. The guidelines express the direct obligations of businesses as within their respective spheres of activity and influence, transnational corporations and other business enterprises have the obligation to respect, ensure respect for, prevent abuses of, and promote human rights recognized in international as well as national law.’ The Norms cover a broad scope of human rights concerns and there is an extensive commentary which provides more definitive guidance as to the standards for expected business conduct. As an alternative to the commonly used ‘spheres of influence model’, Margaret Jungk at the Danish Centre for Human Rights has used a traditional dissection of human rights law into negative duties that business must respect and positive (protecting, promoting, and fulfilling) duties that business should accept ‘positive’ duties in particular circumstances (and introduce the notion of a business acting as a ‘government):

1. Businesses should act like a government in respect of their workers and promote, protect and secure their rights;
2. Businesses have a duty to ensure that their products are not used in the violation of human rights;
3. A business should assume positive responsibilities in relation to anyone residing on its land; and
4. Companies should incur positive duties when they de facto replace the government.

Human Rights, Governance and Law

The implications of HRBA in both governance and law have long been established. In Chapter 4 of the book published by Thurston (1878) of Georgetown University entitled *Human Rights, Governance and law*, the role of human rights in governance was explained thoroughly. One of the major functions of human rights is to guide governance at local, national, and international levels. Human rights restrain and give direction to the exercise of governance. In *Webster’s Third New International Dictionary*, one of the definitions of “governor” is “an attachment to a machine (as in a gasoline or steam engine) designed to afford automatic control or limitation of speed or power: especially : such an attachment actuated by the centrifugal force of whirling weights opposed by gravity or by springs.” With reference to the governor sketched on p. 64, Robert Thurston, in *A History of the Growth of the Steam Engine*, explained: The speed of the engine varying, that of the spindle changed correspondingly, and the faster the balls were swung the farther they separated. When the engine’s speed decreased . . . they fall back toward the spindle. . . . The arms carrying the balls . . . are pinned to rods . . . closing and

opening the throttle valve, and thus adjusting the supply of steam in such a way as to preserve a nearly fixed speed of engine.

Implications of HRBA in Governance in the Philippines

Guided by the initiatives of Maria Socorro Diokno on HRBA together with her team composed of CHRP and CSO volunteers, the UN produced a UN Training Manual on HRBA in 2002. The UN Training Manual on the Human Rights-Based Approach produced in July 2002, gave flesh to the application of the HRBA in the Philippines. The UN Country Team in the Philippines adopted the Human Rights-Based Approach to its Development Programming in 2001. It oriented and trained the entire UN Family and key partners from both government and civil society on the mainstreaming of human rights principles, human rights instruments, normative content of rights, and concepts of state obligations and rights entitlements and progressive realization into development programming. This UN manual produced in the Philippines point to the following key features of the HRBA. The concepts of obligations and accountabilities, which apply to both duty-bearer and claimholders as elements of HRBA was also discussed in the manual. Human Rights always imply human duties and responsibilities.⁷⁰ Individuals can demand government to comply with its human rights obligations, which have three levels: obligation to respect, obligation to protect and obligation to fulfill. These levels of obligations go with two levels of compliance: immediate and progressive.

As postulated in the manual, individuals have specific human rights obligations too: they should respect the human rights of others, exercise human rights responsibly and fulfill their rights to community. Both duty-bearers (referring to state) and claimholder should be capacitated to enable them to fulfill their respective human rights obligations and responsibilities. On the other hand, accountability over the performance of obligations may be demanded through complementary approaches such as monitoring, reporting, public debate, greater citizen participation in public service delivery, justiceability in court and the like. Very important to the mainstreaming of human rights obligations and accountabilities in development programming are the conduct of capacity analysis and assessment and the provision of measures to equip both duty bearer and claimholders with the needed capacities that would enable them to fulfill their duties and accountabilities. Like human rights obligations, people's rights entitlements are also derived from both national and human rights laws corresponding to the standards set in the normative content.

Ma. Socorro I. Diokno had packaged a book that provides both development and human rights practitioners with a framework on how to work together. Her book is entitled *Human Rights Centered Development* (2004) is a pioneering attempt to put together the concepts and applications of the Human Rights-Based Approach in the Philippines. She explained in her book a highly acceptable rationale why development initiatives should center on human rights. The book addresses also the guidelines in formulating human rights centered policy, a rights-based national development planning, assessing national budget allocations in the context of human rights and the procedural process for a human

rights centered development programming. Of much contribution to both human rights and development practitioners are Ms. Diokno's tools for analysis in the context of human rights and her enlightening section on the concepts, principles, and standards of human rights. Specifically, she categorized human rights principles that determine the essence and modes of conduct of development such as empowerment, equality, equity, non-discrimination, attention to vulnerable groups, indivisibility, interdependence and interrelatedness and universality. She added that other human rights principles specify modes of conduct in the pursuit of development presumably by different actors of governance. These principles include accountability, good governance, and independence of the judiciary, legislative capacity, people's participation and transparency. Her manual dealt also on an illustrative discussion of the normative content of human rights and an amplification of the nature and levels of human rights obligations relating to specific rights, among others. While all these discussions are also found in international human rights documents and materials, Ms. Diokno has successfully demonstrated the applications of the concepts, principles and standards of human rights in a manner that will be easily understood by both development and human rights practitioners.

On the part of the Commission on Human Rights, a framework evolved on the mainstreaming of human rights to development in the Philippine context. Under the guidance and substantial inputs of Chairperson Purificacion C. Valera-Quisumbing, Director Rosette C. Librea of the Strategic Development and Planning Office (SDPO) of the Commission on Human Rights of the Philippines (CHRP) developed the Right to Development Framework: Mainstreaming Human Rights, Gender and Right to Information. The framework was validated by participating government agencies and civil society organizations under the GOP-UNDP Right to Development Programme. She also formally launched the framework during the Onofre D. Corpuz Lecture Series sponsored by the Association of Development Academy of the Philippines Public managers, Inc. (ADAPPMI).

Quisumbing, Librea, et al in their written report, contextualized the HRBA framework in the Philippines represented by "two separate spheres that overlap, depicting the level of interconnection, between human rights and development. The objective is to increase and widen the level of convergence of human rights and development through governance processes that provides the enabling environment for development." This framework was published in the joint publication of the CHRP and the University of the Philippines-National College of Public Administration of Governance (UP-NCPAG)⁷¹. As originally contemplated by Librea, the convergence of the two spheres could be better achieved if champions, advocates and workers of each sphere assume a better understanding and appreciation of how each sphere works in order to make possible the widening of the interconnection between human rights and development.

The role of governance in this action framework was also elucidated. As conceptualized by Quisumbing, Librea, et al, they connected governance to HRBA in the context of the notions on human rights obligations and entitlements by the state and the people, who are

referred to as the duty-bearer and claimholder respectively, under the HRBA concept. They contended that the actors of governance refer to the same duty-bearer and claimholder under the approach. These same stakeholders constitute the domains of governance composed of government institutions, private sector and civil society, who interact altogether positively or negatively in different areas of governance such as economic governance, political governance and administrative governance. As further discussed in the Action Framework, the principles and standards of human rights can be applied in these different governance functions particularly in policy making, decision making, legislation, regulation, development planning and programming, taxation, national security, defense, election administration, administration of justice, environmental protection, local governance and the like.

The concerns on how to mainstream and apply HRBA were also raised in the Action Framework. Thus, as the framework suggests, capacities for HRBA can be built through training, research, constituency building and other related strategies. The framework demonstrated also the practical application of the different steps of development planning and programming processes in order to raise standards for quality of life of the people and to increase accountability and capacity of government in producing administrative policy, economic policy, a piece of legislation, a service delivery system, production of goods and services, a program or project, etc. Hence, the framework presented the HRBA as applied to development programming involving the urban and informal sectors, which Librea presented to the Urban Poor Working Group and the Forum of the Informal Sector in 2000 during the implementation of Phase 1 of the Philippine Human Rights Plan.

Ms. Librea made a follow through of the action framework when she joined the Center for Public Resource Management (CPRM) in 2002. As one of the consultants of the Center, she designed for the CHRP a system approach to understanding the process of HRBA in specific development and governance processes. She came up with designs that integrates the HRBA into the regular mandate of the CHRP and likewise, the application of the HRBA in writing project proposals, program and project development, conducting impact assessment, conducting policy analysis, budgeting, national development planning and local action planning, human rights compliance monitoring, orienting government mandates, services and programs to human rights and the like. This design manual was adopted by the CHRP and later published jointly by the UP-NCPAG and CHRP in 2006, as a source book on human rights.

With more intensive research and studies on HRBA, its contributions to development and good governance could be more polished. As deliberated under this section, there is no conclusive attempt to establish HRBA as the most effective method and tool toward achieving good governance. Rather it is conceived as one of the evolving method and tool in the continuously evolving paradigm of new governance or good governance especially in the Philippines. However, at this stage of propagating HRBA, it could be safe to claim that the approach is definitely an effective tool to achieving good governance in a country like the Philippines, which is beset with combined development and governance problem. HRBA could categorically enhance participation, rule of law,

transparency, accountability and responsiveness to the people - which are real claims of the Filipino people for good governance.

The foregoing discussions on the concepts of human rights, development, governance and their links that are instituted through different human rights-based approaches should prove beneficial to this empirical study. Indeed as was shown in the review of literature, there are various cases and sample of good practices experienced in different countries showing how human rights enhances development and governance as well.

As the subject of this study, there is a need to establish parallel studies in the Philippines that would show the progress that the country is making in the practice of HRBA since 2002 in different contexts such as institutions, projects, public action, policy making, local planning, policy making, among others.

CHAPTER 3

CASE 1 – LEGAL EMPOWERMENT OF THE POOR (LEP)

This chapter presents the first of the six case studies of mainstreaming HRBA in selected development projects of the Governance Portfolio. The six cases were selected based on the following criteria: a national policy reform initiative using HRBA to empower one vulnerable sector; a local initiative applying HRBA local planning for MDGs at the City and its component barangays; a national initiative for indicators setting on one basic human right; national initiative to use HRBA as guide in shepherding government reorganization, a local initiative to use HRBA in enhancing community participation in local development; and a national initiative to implement human rights treaties to improve conditions of the vulnerable and disadvantaged sectors of the country. Each case provides an in-depth analysis of the case. Discussed are the HRBA project design that was implemented, the organization of the proponent, the method and process through which HRBA was applied in the project, the various implementation, institutional and organizational Issues and constraints encountered by the project in applying the approach, the indicators of HRBA success both at the output and outcome level, the reaction of the HRBA user, the lessons learned in applying the approach incorporating as well the future direction, replicability and sustainability of the approach.

This case on legal empowerment of the poor involves mainstreaming of economic and social protection rights of the informal sector that are guaranteed under ICESCR.

A. Overview of the Project Case

In 2007, the UNDP sought the engagement of the ESCR, Asia to implement a project on legal empowerment of the informal sector in the Philippines. The project is an offshoot of the mission conducted by Dr. Naresh Singh of the United Nations High Level Commission on Legal Empowerment of the Poor. The mission was intended to develop sound policy recommendations to reduce poverty in the country through legal empowerment. Dr. Singh recommended to UNDP to undertake initiatives to address the four (4) crucial pillars of national and international efforts to give the poor protection and opportunities. These pillars are (i) access to justice and the rule of law, (ii) property rights, (iii) labor rights and (iv) business rights.

Under the Governance Portfolio of the GOP-UNDP, the ESCR Asia is expected to implement a legal empowerment project that demonstrates the use of HRBA in the designing and implementation of the project.

1. Purpose of the Study

This case study seeks to achieve the following purposes:

- a) To establish the extent to which the elements, processes and tools of the HRBA have been applied in the project; and
- b) To draw up lessons on how best the HRBA can contribute to the sustainability of the project and enhancement of the development and governance goals for the informal sector.

2. Project Design

The project was designed towards the review and formulation of appropriate legislative, judicial and administrative measures and mechanisms focused on the four thematic agenda on the legal empowerment of the poor.

In order to implement the project, the ESCR Asia envisioned the conduct of systematic focus group discussions and national conference with key sectors and partners in government, civil society organizations and basic sectors. Such consultations were designed to take off from the policy papers on the thematic agenda of legal empowerment of the poor, which would be prepared, consolidated and presented through various consultation fora among key basic sectors, government organizations and private sectors from the different parts of the country. The results of these consultations would culminate in the formulation of action plans and monitoring of commitments of the project constituencies.

3 Summary of Project Gains

The project accomplished significant gains in the aspect of the use of the elements and processes of the HRBA in the project. ESCR Asia was able to produce four thematic policy papers along the four (4) focus areas of the project, which further led to the drafting of the Magna Carta for Informal Sector in the country. Hand-in-hand with achieving this gain is the massive participation that was generated among the informal sector involving six (6) basic sub-sectors to include: vendor, small transport, home-based, fisher-folks and farmers. Raising of awareness on the different rights of the informal sector was also done through community –based approaches in at least six strategic areas in the country.

Under a purely developmental framework, such very intricate analysis and formulation made covering the thematic policies and Magna Carta could not have been possible. The issue of legal empowerment was given a face and an address with the enlistment and participation of the different sub-sectors of the informal sector, who were statistically unknown in the past.

4 Summary of Lessons Learned

The twelve-month work and preparation proved to be meaningful in bringing about a healthy and constructive engagement of both government and non-government frameworks in dealing with the human rights concerns of the informal sector. The application of HRBA was exhaustively done in terms of being able to mainstream human rights standards of the informal sector. The use of human rights advocates and practitioners in the writing up of the policy papers and Magna Carta through a consultative process proved to be the most appropriate method of HRBA in the project.

Specific to this case, the human rights-related mandate of the ESCR Asia worked to its advantage. The operationalization of the HRBA parameters to include the human rights principles, normative content and application of obligations and entitlements proved to have been implemented with greater ease. Likewise the use of popular human rights materials that were designed and produced by human rights consultants and volunteer organizations tapped by ESCR Asia made significant contributions to facilitating the mainstreaming of the approach in the project.

B. Overview of the Project Proponent

1. Mission and Key Functions

The ESCR Asia is committed to the understanding and articulation of Asian perspectives on human rights in general and economic, social and cultural rights in particular and also, in developing agreements on these principles and strengthening commitment to promote ESCRs, specifically in Southeast Asia and other Asian countries.

2. Mandate of ESCR Asia in relation to the Project

Upon the identification of the ESCR Asia, Inc. as the proponent of the project by the UNDP, its Board of Trustees discussed the research outline or framework to help give direction to the project. As guide to the participants of the project especially the writers, the board agreed upon the common terms of reference, which was made truly rights-based. ESCR, Asia adopted as a general policy that the policy measure would be along the basic principle that legally empowering the poor meant going beyond formal laws and that empowerment meant participation in the decision making processes and governance concerns that affect them. Coupled with this policy is the condition set by ESCR Asia the informal sector has special need in terms of capacitating itself on relevant vulnerability and corruption issues that affect their status in society.

C. Evidence-Based Application of HRBA in Project Implementation

At the outset, the ESCR Asia made a conscious effort to promote and practice the use of HRBA in the project. It formulated a comprehensive right-based policy framework for the development of policy measures that entailed an exhaustive review of existing and pending legislations with those of the ICESCR and other relevant international and domestic labor laws. This was followed by a mobilization of networks of the informal labor throughout the country that participated in both the regional consultations and national consultation. The policy dialogues and consultations were aided by information materials in popular forms showing advocacies on specific rights of the informal sector. The documentation, analysis and interpretation of the various results of the policy consultations were supplemented by the inputs of the different law organizations in the country, concerned government agencies and academic and research organizations and media organizations involved in human rights advocacy work.

The different strategies used to effect HRBA at every stage of the project included among others, the organization of rights-based constituency built into advocating the legal empowerment of the basic sectors. Representatives from different organizations of informal sector and sub-sectors participated in the various consultations. They represented the areas of Luzon, Visayas and Mindanao. Policy and social dialogues were advocated between these organizations of vulnerable sectors with national government agencies and local government units that were focused on the needs and concerns of the informal sector using a rights perspective.

Starting November 2006 to February 2007, the Board of Trustees of ESCR-Asia met at least three times to tackle the framework and appropriate design of the national consultation processes. The bottom-up-bottom approach (or grassroots-experts approach) was reaffirmed as the effective methodology in the drawing up of the four thematic papers. It was agreed that at least two focus-group discussions with grassroots and experts be conducted to enhance the major documents and to realize the objectives of the endeavor.

The basic sectors identified and covered from Luzon, Visayas and Mindanao were those coming from non-corporate construction work, small transport, vendors, home-based, fisher folks and farmers.

From January-March 2007, writers were identified and briefed – *Atty. Glenda Litong for Access to Justice and Rule of Law*, *Dr. Amado Mendoza- Property Rights*, *Atty. Edmund Lao and Jeremy Inocian- Labor Rights* and *Reginald Indon- Legal Mechanisms for Empowering Informal Businesses*. The writers employed not only review of existing literature on the topic but initiated interviews with key informants from both key government agencies, basic sectors and the academe. The first drafts of the papers were subjected to reviews not only through focus group discussions with experts and basic

sector groups but also of the Review and Advisory Panel members. Relevant and pertinent case studies were also researched to substantiate the guidelines and terms of reference of each thematic paper.

From March-April 2007, a 12-member Advisory Panel was formed and composed of well-known human rights advocates, legal luminaries, civil society leaders, academics, and former and current government officials who believe in the strength of legal processes/mechanisms and structures in addressing and crafting an anti-poverty agenda. The role of the Advisory Panel was defined. More importantly, given their expertise, the members were asked to further substantiate the contents of the draft thematic papers and to help advance the Philippine initiative in utilizing legal system to empower the marginalized section of society. Series of consultations were held from March to June 2007 to orient and discourse on the LEP initiative, get feedbacks on the four documents as well as fortifying their respective commitments to champion the LEP agenda. These efforts paid off as members of the Advisory Panel proved to be very helpful in providing comments/inputs that further enhanced the contents of the four thematic papers and in putting forward viable proposals/policy recommendations.

In April, 2007, after the creation of the advisory panel, ESCR-Asia deemed it necessary to conduct consultation activities with grassroots leaders concerning the design, content and time-frame of the envisioned national focus group discussions. ESCR-Asia met at least 14 major informal sector organizations in Metro Manila, 20 regional informal sector leaders and organizations in Cebu City, 12 in Cagayan de Oro City and 8 in Zamboanga City between end March and April 2007. In these meetings, target participants (participating organizations, leaders) for the national FGD were not only identified but also of the purpose of the endeavor. For enlightened participation of at the local level, the executive summaries of the papers were also translated into Filipino and Cebuano and distributed to the IS leaders before the actual consultations. Highlighted in these materials are the various rights and concerns of the informal sector.

The results of the deliberation of the Advisory Panel were also turned in for presentation in Focus Group Discussions (FGDs) in strategic areas. In order to address the problems and concerns of the informal sector to the roots, which is typical of the HRBA, the FGD design allowed much participation from the sector in order to solicit opinions and views of grassroots leaders, human rights advocates and other stakeholders on the thematic policy papers. Two national focus group discussions were held. In the FGD with Basic Sector Leaders (Cebu City, May 18-22), thirty participants from different parts of Luzon, Visayas and Mindanao attended this four-day gathering. A news article capturing the highlights of the event came out in one local broadsheet in Cebu City. The same FGDs were run in Quezon City on June 1, 2007. Around forty select officials of government agencies, representatives from the private sector, leaders of non-governmental organizations, and church institutions, and academicians took part in this gathering. Feedbacks and recommendations of the participants in the two FGDs have been

considered by the authors in coming up with the final version of their respective thematic papers.

These FGDs were followed by a national policy conference at the Makati Shangri-La Hotel on July 25-26, 2007. Aside from the regular staff, ESCR-Asia contracted at least four people to assist in the preparation of the National Policy Conference held on July 25-26, 2007. Adopting the multi-stakeholder approach to the endeavor, at least 60 key government agencies, 50 basic sectoral groups, 20 diplomatic, 20 from academe and 50 from non-government organizations and people's organizations were targeted to participate in the conference invitations, to include venue preparation and the development of an LEP kit took more than a month-preparation. A major breakthrough in social dialogue on the empowerment of the poor was the gathering of duty-bearers and claimholders that made up a multi-stakeholder representations from government, civil society and basic sectors from Luzon, Visayas and Mindanao through a National Policy Conference (NPC) held at the Makati Shangri-La Hotel last July 25-26, 2007. More than a hundred participants including some members of the diplomatic e.g. European Union, the Royal Norwegian Embassy as well as media attended the said event. During the National Policy Conference, the following government agencies pledged and committed to champion the cause of the poor: Asian Development Bank, Dept. of Labor, Mindanao State University (MSU), the National Anti-Poverty Commission (NAPC) and the National Economic Development Authority (NEDA). These were participated by the National Government Agencies and NGOs e.g. NEDA and ESCR-Asia, Phil. National Police (PNP) and ESCR-Asia. Presidential Management Staff (PMS) and informal sector groups participated in the event.

After four months of revision, editing to include lay-out of the four thematic papers and the integrative paper, the policy resource book was finally published and launched last December 10, 2007, as a fitting commemoration of the Human Rights Day. It was attended again by both duty-bearers and claimholders of legal empowerment issues coming from select government agencies, informal sector subgroups (home-based workers, small fisher-folks, farmers, vendors, and small transport).

The launching was matched with popularization of the human rights concerns of the informal sector through conduct of Regional Caravan of the Legal Empowerment of the Poor. To continue the nurturing of "champions" among the duty-bearers and the claimholders for the legal empowerment of the poor, ESCR-Asia designed and started the caravan to the regions. After the launching of the policy resource book in Manila, the Cebu City Administration was the first partner in the said caravan.

D. Institutional/Organizational Issues and Constraints

ESCR, Asia has, within its mandates and resources effectively managed a rights-based policy reform for the legal empowerment of the poor through a massive national and

local consultation involving not only the major informal groups of the sector but even the different sub-sectors with appropriate geographical representations in the different islands and regions of the country.

It encountered major organizational constraint in that of being a relatively small organization with few core staff to manage consultations, which have both national and local dimensions. Although the organization was able to tap some help from different non-government organizations, the entire consultation process involved in the validation of the thematic policy papers and the crafting of action plans at various levels proved to be a major constraint.

E. Evidence-Based Application of HRBA in Project Outputs and Outcomes

As envisioned the human rights orientation of project results is only made possible through a deliberate mainstreaming approach that was made possible based on the conceptual framework on HRBA. However, the real test of the effectiveness of HRBA is based on the human rights content of the policy papers and the draft Magna Carta, which is examined thoroughly as follows:

1. Output Content Analysis of the Four Thematic Policy Papers on Legal Empowerment of the Poor.

Adopting HRBA to legal empowerment of the poor means understanding development not only as the economic, social, political and cultural process of achieving the realization of human rights and freedoms of the poor, vulnerable and marginalized but above all as the empowerment and capacitating of these people to make choices and decide what this process of expansion should look like. Such approach was tediously applied to this project. Both the content of and the process through which the policy framework evolved, were products of massive and substantive consultations. Content wise, the four (4) thematic papers were able to adequately produce a rights-based policy framework that could effectively serve as basis for subsequent legislative, judicial and administrative measures for the legal empowerment of the poor. These thematic papers address the legal empowerment agenda of: access to justice and rule of law; property rights, informal labor and legal mechanisms to empower informal businesses. Process wise, all the thematic papers underwent a tedious combined bottom-up and top-bottom approaches, which is typical of the HRBA. Interview and collection of experiences from key stakeholders from both government and civil society groups to include vulnerable sectors, were undertaken. Organization of panel of advisers representing different expertise and interests were made to comment is built into the consultation process. Broader consultations, from the local, regional and national levels, were likewise, considered, involving wider coverage of stakeholders especially the Philippine Informal Sector.

This section of the case study highlights only some features that demonstrate the use of the HRBA.

a) . Access to Justice and Rule of Law⁷²

On the thematic policy agenda entitled “*Reducing Poverty and Ensuring Access to Justice through legal Empowerment of the Poor*” the policy paper offered an alternative development paradigm, which defined “*Poverty, aside from making people unable to meet basic food and non-food items, also results in the deprivation of rights, in vulnerability and marginalization, where the poor is unable to claim and assert what should be their due.*” The paper also made more definitive qualification of the poor as those who do not have or are deprived of means by which they can secure livelihood to meet their daily basic needs and realize their basic human rights.

Also the paper introduced rights-based definitions of three (3) critical concepts such as legal empowerment, access to justice and rule of law (including rule of law orthodoxy). The use of the concept of legal empowerment is defined as the process of acquiring critical awareness about rights and law, the ability to assert rights, and the capacity to mobilize for change.⁷³ As indicated in the paper, the six (6) key uses of the term empowerment as espoused by Oakley (2001) was considered as follows: empowerment as participation, empowerment as democratization, empowerment as capacity building, empowerment through economic improvement and empowerment and the individual. These five uses of the term empowerment in the thematic paper is very much compliant with the way empowerment as a human rights principle is defined, as that which views the development process as empowering in itself that implies building the necessary capacities in stakeholders, power to act for and on their behalf to claim their rights and to bring about necessary changes toward the full realization of all human rights⁷⁴

The second concept of rule of law has been characterized in many ways: i.e. the rule of law prevails where the government itself is bound by the law; every person in society is treated equally under the law; the human dignity of each individual is recognized and protected by law and; justice is accessible to all.⁷⁵ Under a rights-based framework, the human rights principles of legislative capacity and rule of law requires that the capacity of the legislature to enact laws that aim to uphold the inherent dignity of every person is important to the exercise and enjoyment and realization of all human rights. In which case, all persons are equal before the law, and are entitled to equal protection. Without a sound legal framework, the same as without an independent and honest judiciary, economic and social development collapse.⁷⁶ Given this premise, the paper seeks to focus on interventions and initiatives that aim to improve rule of law in a particular context, as has been described as the “rule of law orthodoxy”, i.e., a set of ideas, activities and strategies geared toward bringing about the rule of law, often as a means towards ends such as economic growth, good governance and poverty alleviation.⁷⁷

The third concept on Access to Justice by the poor has been incorporated in the rule of law orthodoxy, where the former is considered a critical component of the latter. Thus the paper, posits that legal empowerment aims to create an environment that will enable the poor to overcome the constraints that prevent them from accessing the legal system, allow them to gain more control over their lives through laws that understand their

context, ensure their rights and address their needs, and place them in a position to push for the law's enforcement.⁷⁸

On the basis of these rights-based definitions of the three concepts, the paper ventured into an analysis as to "How access to justice and rule of law respond to legal exclusion, marginalization and vulnerabilities of the poor so that legal empowerment of the poor may be achieved to reduce poverty?"

On the matter of presenting the barriers of legal empowerment of the poor in the Philippines, the paper deliberately or non- deliberately achieved a rights-based analysis befitting of a HRBA from the perspective of the capacities of both the duty-bearers referring to government and claimholders referring to the poor. In the context of the capacities of the judiciary as the duty-bearer, the issues of access to justice and rule of law have always been "institution-oriented." Thus, its approach is basically "institutional reforms" that addresses the typical menu of problems in the Philippine Legal System. Identified under the Action Program for Judicial Reforms (APJR) are the perennial problems of: case congestion and delay, budget deficiencies; politicized system of judicial appointments; lack of judicial autonomy; need for re-engineering the human resources development system to support continuing capacity improvement in the provision of legal and judicial services; dysfunctional administrative structure and operating systems accompanied by deficient court technologies and facilities; and the need to improve public information and collaboration with civil society. The APJR touched on access to justice but the issues identified are again institutional in features. These are: delays in judicial proceedings; erroneous decisions rendered by lower courts; prohibitive cost of litigation; and inadequacy or lack of information about the judicial system.

On the other hand, the capacities of the poor, vulnerable and marginalized are viewed differently under the purview of legal empowerment, which is taken in the context of their economic and social status in the Philippine society. Under poverty condition, these groups referred to as the claimholders in human rights parlance, are in no position to bargain or assert for their rights, thus the issue of equity in the context of access to justice. These claimholders continue to perceive the law as mainly for the rich and have likewise, expressed general distrust for the justice system. Hence the genuine perspective of the poor with respect to access to justice and rule of law include divergent concerns such as: lack of access to legal education by the poor and marginalized; lack of information on the part of the judges and other administrators of the justice system about the issues concerning the poor and marginalized and the specialized laws governing them; lack of adequate representation before the courts and the tribunals due to the lack of lawyers that handle their cases; lack of support mechanisms for the poor and members of the marginalized groups who are involved in cases; issuance and implementation of anti-poor policies and decisions; general discrimination against the poor and marginalized groups within the judiciary and justice system; structural and systemic problem within the judiciary and justice system that impede access to justice by the poor; gender insensitivity and bias of the courts and other government offices involved in the administration of justice; and inadequacies in structure and processes of the barangay justice system

particularly the needed sensitivity and understanding of women's context and gender. In this respect, the paper also surfaced the vulnerable identities of women, indigenous peoples.

The HRBA puts the poor, marginalized, vulnerable groups at the core of policy and the focus of capacity development strategies through a process that addresses human rights problems to the roots. This was achieved in terms of how the paper treated the issue of the Philippine informal Sector. The paper analyzes the current legal and regulatory framework of the informal sector to include: laws affecting the vulnerabilities in the informal sector particularly, women, children and indigenous peoples; laws governing sub-groups of the informal sector such as farmers and fisher-folks, small businesses and vendors, small transport; and other laws such as the labor code, social development and protection available to the informal sector.

Using the HRBA framework the paper has effectively built a case for the Philippine informal sector as the primary target for legal empowerment in the country. Using the rights perspective, development can only be truly empowering if the human person is the central subject, active participant, owner director and beneficiary of development.⁷⁹ In this regard the paper finally posited its general observation that poverty denies the poor the status or personality before the law particularly in the case of the informal sector. The grant of legal personality to the poor is dependent on the recognition of the law of their existence and contribution as subject and objects of development.

Finally, the paper considers some rights-based strategies under the legal empowerment framework. To legally empower the poor, a legislation framework has been considered to bring about real change in the lives of the Philippine Informal Sector. The legislation is expected to define the informal sector in context, causes of disempowerment and the rights of the informal sector with appropriate redress mechanisms. Its principles carry the fundamental principles of human rights. As described by the paper the legislation must spell out a holistic, integrated, comprehensive, non-discriminatory, and participatory and bottom up approach to addressing poverty in the context of the informal sector. It should surface the issues of inequity, inequality and unjust distribution of wealth and resources, as well as the factors that discriminate and emasculate the poor.⁸⁰ As further proposed for the road map, it is guided by the legal empowerment approach, which fundamentally carries the elements of the HRBA like the bottom up approach, the duty-bearer and claimholder analysis involving both government institutions and civil society organizations and consideration of national and international cooperation, which is a parameter towards achieving the right to development. These elements are embedded into the strategic steps proposed by the paper to include: role enhancement of other actors of development; listening to the voices of the poor, especially women; expanding the justice sector; public and civil society partnership; and adoption of indigenous and culturally based and appropriate interventions.

c) . Property Rights⁸¹

Under this thematic paper, the strengthening of the property right of the poor was given focus. The treatment of property right under this section was taken in the context of the situation of vulnerable and marginal groups, which is very much in keeping with one of the human rights principle of *Attention to Vulnerable Groups*. These groups are those who experience obstacles in the realization of human rights. They were mentioned as the special targets for strengthening property rights.

Property rights were elucidated in the light of the status of its enjoyment by vulnerable and disadvantaged groups like the peasantry, indigenous peoples, urban poor, fisher-folks, poor women and informal workers. As established under the legal nature of rights, properties are things over which a person or group of persons (or some juridical entity) has exclusive right. The paper expanded this statement using the human rights perspective as “someone who has property rights is referred to as a right holder – an element in the application of the HRBA. In the context of legal empowerment of the poor, the agenda of property rights point to the capacities of these vulnerable groups to claim and exercise their rights fully and responsibly. The paper cited the importance of those vulnerable groups knowing of such property rights, who are often unaware of the rights that protect them, and therefore vulnerable to abuses and exploitation. As may be deducted from the paper, the capacity of these vulnerable groups to assert property rights is dependent on their capacities to articulate their claims on these property rights. However due to social exclusion, these poor vulnerable groups are often at a disadvantage with respect to collective action that could help them capacitate themselves. As posited by the paper, there were legal measures adopted for the past twenty years like the Comprehensive Agrarian Reform Law of 1988, indigenous peoples Rights Act of 1997, and community mortgage program in 1987, among others, but these were proven insufficient to ensure the property rights of the poor. As claimed by the paper, much is yet to be desired in terms of the effective implementation of these measures to include the resolution of existing conflicts of laws like the case of the IPRA and Mining Act.

Thus, the role of the state in instituting policy reforms and enforcement of such laws and reforms that will strengthen the property rights of the poor was emphasized in equal importance with self-help efforts or a combination of the two. More defined duties and obligations of the state as the duty-bearer, also an element of the practice of HRBA, were identified in terms of policy reforms and effective program implementation. Policy reforms include: resolution of the conflict of, enactment of additional or remedial legislation, transformation of inferior or junior policy such as executive orders into full-blooded laws and the complete translation of national policy and laws into implementing rules and regulations, administrative orders and the adoption of appropriate ordinances at the local government levels from the village level, up to the province and autonomous regions. Effective program implementation calls for assured funding for crucial programs, simplification of registration and titling processes and harmonization of multi-agency programs and procedures.

d) . Informal Sector⁸²

This thematic paper ventured into an in-depth analysis and assessment of the conditions of the informal sector from a rights perspective. Consistent with the human rights standards postulated under Article 7 on the right of everyone to the enjoyment of just and favorable conditions of work, as well as, the related provisions of Article 9 on social security to include social insurance, the paper presented the prevailing concerns of the informal sector that were drawn from different levels of consultation. The human rights principle of providing attention to vulnerable sectors was applied to the informal sector in view of these concerns of the sector: absence of government recognition, limited and voluntary social protection, uncertain tenurial status and uncertain safety in the workplace. The paper offered a very detailed and comprehensive understanding of the informal sector in terms of their labors rights and social protection, which differed among the sub-classifications as follows: geography, premises, gender, vulnerability, industry, and occupation, nature of employment and nature of means. However, across these sub-classifications, core issues directly affecting the informal sector as a whole were identified indicating the level of the sector's vulnerability. These are:

- Institutional inconsistency in recognizing the existence and rights of the informal sector workers being mainly outside of the purview of the country's legal framework, jurisprudence on the informal sector has remained sparse and inadequate in recognizing the inherent labor rights of the informal sector workers;
- Inadequacy of the prevailing working understanding of the phenomena of the informal labor, being labeled as informal somehow means being outside of the mainstream economic activities, even if such activities are not outside the bounds of the law; and
- Inadequacy of some poverty alleviation strategies, requiring the need for strategies to shift its focus from merely alleviating the pain and despair of poverty to actually searching easy and means to reduce incidence of poverty by providing opportunities for poor families to escape the clutches of poverty.

A rights-based view was also used to assess the level of application of labor rights, labor standards and social protection to the informal sector. Specifically, the provisions of the Philippine Labor Code do not apply equally to Filipino workers. The application of the law varies from full application, limited application or to none at all as follows:

- Subsistence employees can enjoy only a limited application of the labor code because while theoretically they can avail of rights guaranteed under the code, they cannot effectively claim and assert their rights owing to their depressed, limited, temporary situation and the nature of their jobs;
- Own Account/Self employed informal sector can also enjoy limited application of training for overseas employment, health and safety laws, right to unions and strike. The rest of the other labor standards are not applicable to them.

The paper has made reference to Litong et al (2002), for its rights-based view that “having ratified all pertinent international instruments relating to the right to work and the rights at work, the Philippines has the obligation to enhance domestic legislation, which would not only respect, promote and protect but also facilitate and fulfill these rights, both in favor of formal and informal labor.”

As a result of the assessment made on the conditions of the informal sector and as a result of the highly participatory consultations conducted, rights-based direction and intervention were formulated as follows:

- Enhance the rights of labor of wage informal employee through vigorous and creative enforcement of existing labor rights and social protection and creating the conditions for compliance; and
- Enhance the rights of labor of the Own Account/Self Employed Informal Employee through vigorous and creative enforcement of rights and creation of conditions for compliance as well as providing greater and expanded labor rights and social protection, to include labor relations, self organization, participation in policy making bodies and security of tenure.

Finally, the paper calls for the bridging of the gap between formal and informal labor, not necessarily under the Philippine Labor Code that poses legal barriers to the informal sector. Social justice and human rights are the more apt approach to effectively strengthen the rights of the informal sector to labor and social protection. Overall, the paper proposed a multi-level process of consultation process involving government, private sector and civil society to address the policy issues and program implementation concerns of the informal sector for the crafting of various legislative, administrative and other related measures to include a road mapping for the comprehensive approach to strengthening the rights of informal sector and enhancing their technical and entrepreneurial capacities. On the other hand institution capacity building, microfinance services and funding support system at various hierarchical levels of government from the local to the national level should be pursued.

Legal mechanisms to empower informal businesses⁸³ were also examined. Through consultations at the national and local levels, the policy paper opened for public discourse the policies, programs and services of the government, which it refers to as the duty-holder⁸⁴. Rights-based objectives were formulated in line with the empowering of this informal sector to that of: ensuring higher and equitable individual income and social protection for informal economic workers; and improving and sustaining informal businesses’ productive and employment generation capabilities.

These objectives are in keeping with Article 6 par. 2 of the ICESCR, which postulates that the steps to be taken by a State Party to the present Covenant to achieve the full realization of the right to work shall include technical and vocational guidance and

training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual. Also, these objectives operationalized the intent of the United Nations Declaration on the Right to Development which stipulates that development is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting there from,

The paper points to significant policies, programs and services for informal business especially relating to microfinance as a development tool for the poor, to include both the regulated/licensed and unregulated/unlicensed. However as one of the issue raised, the impact of all the policies, programs and services seems to have been fairly limited to growth oriented informal businesses, which demands more response from the government, as duty holder. As Article 2, par. 1 of Part II of the ICESCR stipulates *“Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.”* Challenges were identified in the areas of: expanding the business of livelihood and small growth informal enterprises; expanding and deepening the role of LGUs; recognizing the need for greater informal business participation; and sustaining the growth of the microfinance sector.

All these challenges point to improving the access of informal business to productive assets and resources towards helping informal sector attain sustainable livelihood. Resulting from research and consultations, there are legal mechanisms to protect informal businesses but there is a need to effect good governance for the entrepreneurial poor to effectively access mainstream resources and services. Thus, to effect good governance, the government most especially the local government units (LGUs), as duty-holders must seriously address the specific needs and requirements of informal businesses and integrate them into the local project planning, implementation, monitoring and evaluation. When properly integrated, the entrepreneurial poor would contribute significantly to poverty alleviation and advancement of the quality of life of the informal sector. As observed the paper has successfully generated public discourses that were focused on the entrepreneurial poor, as the claimholder.

2. Outcome Level – Content Analysis of the Magna Carta

As an offshoot of the project output, the proponent ventured into the formulation of the Magna Carta for Informal Sector, which was not originally identified as a deliverable of the project. The proposed Magna Carta, which emanated from the results and outcomes of the project, is essentially rights-based described.

The Declaration of Policy of the proposed law bears the fundamental principles of a Human Rights-Based Approach as follows: universality, non-discrimination, equality, indivisibility, interdependence, accountability and participation, rule of law and progressive realization. Taken from the draft, the proposed law has the following declaration of policy, which substantively highlight the principles of a Human Rights-Based Approach (in bold and italicized phrases):

- a) To promote and improve the total well-being of the *poorest-of-the-poor and the marginalized low level income earners* who engage in economic activities under the informal sector;
- b) To nurture and protect the interests of the informal sector by providing them with *adequate and timely social, economic and legal services*, as well as mechanisms that shall protect their rights and promote benefits that ensure their dignified existence and economic advancement;
- c) To recognize, promote, protect and fulfill the rights of every worker in the informal sector including the *right to self-organization, the right to decent work, just and humane working conditions, access to social protection, the right to represent their organizations in a continuing process of consultation and dialogue* towards maximizing the provision of a comprehensive package of reforms, interventions, and services in accordance with their articulated needs and interests;
- d) To recognize the *roles and contributions of workers* in the informal sector and make them visible in the national and local statistics;
- e) To develop and enhance their entrepreneurial skills and capabilities so that they can become *more productive and self-reliant citizens thereby ensuring participation in mainstream economic activities*;
- f) To promote gender equality and protect women workers in the informal sector against *gender-based discrimination, exploitation and abuse*;
- g) To advance the women workers' social, political and reproductive rights and provide access to *social protection and participation in decision-making bodies*;
- h) To *protect vulnerable groups* in the informal sector such as children, elderly, differently-abled persons and indigenous people from discrimination, exploitation, abuse and harassment;
- i) To *progressively eliminate child labor* in the informal sector through the creation of more quality jobs for adults, effective enforcement of laws against child labor, improved access to universal education and elimination of cultural factors that tolerate child labor.

The *Framework and Principles* bears statement and commitments on the following steps to be undertaken by the country as a state party to its obligations under the International Covenant on Economic, social and Cultural Rights. More pronounced under this item of the proposed law is the requirement under the Declaration on the Right to Development, which provides that States should take steps to eliminate obstacles to development resulting from failure to observe civil and political rights, as well as economic, social and cultural rights; and that States have the right and the duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom.⁸⁵ If passed the proposed legislation will be able to fulfill the operationalization of this state obligation as exemplified in the following enumeration: (those in bold and italicized fonts reflect the desired intervention of the state):

- a) Putting in place *policies and programs* that will bring marginalized workers and economic units into economic and social mainstream.
- b) Pursuing *structural reforms in all relevant levels of government* by creating committees, special offices for development and protection of workers in the informal sector and supporting their representational rights through their organizations.
- c) Extending coverage of *accessible and affordable social security and health care benefits* to workers in the informal sector.
- d) Implementing *minimum and simplified regulation* to encourage the development of ingenuity and entrepreneurial spirit among workers in the informal sector.
- e) Encouraging the organization, establishment, strengthening and expansion of the various business activities or enterprises under the informal sector *in the barangay level preferably unified under a municipality, provincial, regional and national federation/association.*

The Coverage of the proposed law highlights preference over the vulnerable group, which is a basic principle of a Human Rights-Based Approach. Using the approach, ESCR Asia successfully identified the most vulnerable among the informal sector. The coverage is inclusive of all the sub-sectors and groups under the informal sector who experience major obstacles, which is a criterion for achieving effectiveness of any development program. These vulnerable groups include the following:

Micro-entrepreneurs: (i) vendors, whether with stalls or without including ambulant vendors, street vendors or those plying their goods and trades in streets and those engaged in sari-sari stores which conform with the total asset value requirements as mentioned in Section 4 (f) of this Act; (ii) marginalized farmers; (iii) marginalized fisher

folks; (iv) home-based workers who are independent producers of goods or services and whose total asset value conforms with that mentioned in Section 4 (f) of this Act; (v) small transport such as but not limited to non-corporate operators of small marine boat or vessel for transport, tricycle, pedicab, *habal-habal*, *calesa*, *kuliglig* or “trolley” whose total asset value conform with the requirement as mentioned in Section 4 (f) of this Act.

Contracted/Self-Employed: (i) on call domestic workers; (ii) barbers, manicurists or pedicurists; (iii) drivers of tricycle, pedicab, *habal-habal*, *kalesa*, *kuliglig*, “trolley” or small marine vessel/boat; (iv) “barkers”, fare collectors, dispatchers and other workers who share in the income of the non-corporate operators; (v) welders and mechanics; (vi) non-corporate constructions workers such as but not limited to carpenters, plumbers, electrician, mason or house painters; (vii) television, radio and air-condition technicians.

The section of the proposed law on *Special Allocations for Development Initiatives* is an indication of the progressive realization of economic, social and cultural rights of the informal sector. The annual allocation of funds for development initiatives for the informal sector will ensure continual progress of the realization of the rights and freedoms of the informal sector.

As proposed, the national government shall allocate at least ten (10%) percent of its annual national budget to be appropriated proportionately in accordance with the corresponding internal revenue allocation (IRA) of respective local government units (LGUs). Such allocation shall be annually added to the current IRA of LGUs. For this purpose, the Commission on Audit (COA) shall establish an Informal Sector Development Fund in every municipality and city for their supervision and management subject to accounting and auditing procedures.

The Creation of an *Informal Sector Development Council* under the proposed law will provide the sustainability of the development initiatives for the informal sector. This will serve as the implementing mechanism through which policies, programs to improve the conditions of the informal sector could be maintained as well as the monitoring and evaluation thereof.

The foundation for the integration of the informal sector and its mainstreaming into the national life will be guaranteed by the establishment and development of a centralized and sex-disaggregated database system to effectively guide policy formulation relative to the Informal Sector workers. This will guarantee the observance of the principles of a rights-based approach such as equity, non-discrimination, participation and empowerment. The databank shall be available for public use and shall include but not limited to the following:

- a) .Master list of workers in the informal sector classified according to geography (urban or rural based), premises (home based or non home based), gender (male, female), vulnerability (children, elderly or person with disability), industry (industrial, commercial, services or agricultural), occupation (fisher folks, farmers, construction, drivers, vendors, laborers

or sales personnel), nature of employment (casual, contractual, seasonal, permanent/regular or pakyaw/commission basis/boundary system) and roles/functions (own-account/self-employed or subsistence/marginal employment);

- b) List of government and non-governmental organizations which provide educational, socio-economic and legal services to the Informal Sector;
- c) Sex-disaggregated statistical profile of various Informal Sector workers based on age, location, type of work, average monthly income, number of hours worked, and other statistical information;
- d) Statistical data on informal enterprises, including capitalization and sources of capital, number and status of workers, average income;
- e) Database of the needs and problems of women and children in the Informal Sector nationwide; and
- f) Compilation of existing laws and programs affecting the interest and welfare of the Informal Sector.

F. HRBA Indicators Generated from the Project

Again, through the operationalization of the HRBA Conceptual framework, the case was able to draw out very specific indicators, which came about as a result of the approach.

1. The degree to which human rights principles and standards have been applied in the content of the outputs particularly in defining the rights that the legal poor must be able to secure through the Magna Carta and through the four (4) thematic policy papers.

2. The degree to which the claimholders were involved in the project especially in expressing their views, opinions and contributions to the decision making on the contents of the policy outputs; demonstrating the exercise of an empowering participation in the process; and

3. The degree to which the relevant State Obligations contained in the pertinent international treaty and domestic laws are expressly incorporated into the policy outputs on the informal sector.

G. User Satisfaction on the HRBA

The proponent found the application of the HRBA easy because, first, it is intrinsic or an inherent mandate of a human rights organization like ESCR-Asia. Second, the

understanding of what HRBA is a lot easier to an HR entity than to an NGO or any entity not having the rights mandate.

As expressed by the proponent, the HRBA is also an ‘expensive’ approach. Employing the “bottom-up” approach, ensuring participation, gender balance, non-discrimination, etc. does not only require skill, time but also resources. An example, one component of LEP Phase 2 was also the drafting of a rights-inspired Magna Carta for members of the informal sector. ESCR-Asia has to do an island-hopping consultation to ensure that the cultural nuances in drafting the proposed bill will be considered. Realities and needs of informal sector members coming from Luzon are different to those from Mindanao and the Visayas. Authentic HRBA requires ‘fidelity’ to the understanding that one cannot “shortcut” a process to be able to get the desired result. As the proponent claimed *“no NGO, even if its mandate is rights-motivated cannot claim monopoly to the correctness of the application of HRBA.”* The desired outputs and results of the plan are best indicators if the HRBA has been faithfully implemented.

As noted by the proponent, the added-value is in ensuring that the planning is validated from the ground; that the plan garnered the affirmation of the field partners; that it took into great consideration to the real needs of the constituencies, thus creating confidence in the work implementation. LEP Phase 2 was a continuation of Phase One and merited the consultation of various informal sector groups. LEP Phase 3 project components were presented to the partners including getting their critique. It is easy to plan themes but emanating it from the partners/constituents is difficult. HRBA also builds mutual goodwill among the funder-donor, the implementor and the field partners. On hindsight, the HRBA also unleashes a principle in the Right to Development Declaration that: *“That the human person is the subject, participant and beneficiary of development.”*

Based on the experience of the proponent, the following can be considered in ensuring effective use of HRBA: process documentation; faithful employment of at least the following principles: participation, gender balance, non-discrimination, budget allocation for validation, at least two-island consultation if project is nationwide; translation to Filipino or the equivalent language any English-driven/dominated project; and an orientation of what HRBA mean specially to the team implementing a project

H. Lessons Learned from the Application of the HRBA

While the mainstreaming process was highly predictable in terms of being able to generate human rights oriented process, outputs and outcomes in the project, HRBA proved to be very useful. The different stakeholders both duty-bearers and claimholders found ease in applying human rights standards as enunciated in the ICESCR. Under traditional process of purely invoking the relevant human rights treaties simply did not work as such process only proved to be an imposition. The HRBA was a more creative and innovative way of raising the level of awareness of both the duty-bearers and claimholders in the process.

1. HRBA to legal empowerment of the poor is an inclusive and expansive process.

Since the informal sector is continuously sprouting and growing as a consequence of economic disparities in the Philippine society, the proponent found it extremely challenging to reach out to the larger cross-section of the sector. As the HRBA typifies, the approach should allow for a bottom up and top bottom process that would allow interaction between the duty-bearers and claimholders. In addition, the lateral interaction across sectors proved to be equally challenging as attempts to cover the greatest number of the sub-sectors of the informal group through local and group representations proved to be inclusive. But much is yet to be desired, as time and resources proved to be scarce to cover as much areas where the informal sectors are.

2. Creative use of Information and Education Materials

Communicating the rights of the informal sector is by itself a great challenge. Considering the divergence of the informal sector, the proponent had to be extra creative in their approach to consultation. Simplified literature in the form of popular information materials had to be produced despite constraints in resources in order to effectively communicate the rights and concerns of the informal sector in a language and form that would be understandable to them.

3. Social and Policy Dialogues for both duty-bearers and claimholders

Mobilizing the support of both claimholders and duty-bearers to the cause of the informal sector through the thematic policy papers and the Magna Carta proved to be a greater challenge. The cooperative effort of various government and non-government organizations, as well as, the academe worked together in the mobilizing particularly of the representative claimholders among the informal sector.

4. HRBA Method and Tool

The application of HRBA in this case was less structured. What makes it HRBA are the basic orientation and processes of the proponent, which is basically a human rights organization. The framework, designs, processes, materials and tools they used have basic HRBA orientation, which made it easy for them to effectuate the approach in this policy reform for the legal empowerment of the informal sector. The application of the HRBA came about naturally, as every step taken by the proponent deliberately involved human rights champions and advocates. However, while the outputs produced by this project case are heavily rights-based, there is much yet to be done to institutionalize the HRBA process of the ESCR, Asia not only for its use but also for the benefit of those who wish to learn from their experience. In order to improve the practice of HRBA by the ESCR, Asia, there is a need to enhance the documentation of their processes and tools. ⁸⁶Definitely, with proper documentation, the project's application is highly⁸⁷ replicable. This will contribute much to the practice of national legislation or local policy making where both the duty-bearers and claimholders would be heavily engaged in the

substantive issues and concerns that affect the concerned sector using human rights perspective, process and tools. This experience of the ESCR is tremendously engaging, which has shown high commitment and passion for the advancement of the human rights of the informal sector.

Overall, the process of mainstreaming human rights as enunciated in the conceptual framework and operational definition of HRBA effectively worked in this case. International human rights framework was mainstreamed into the national initiative for legal empowerment of the poor. This was made possible through the use of informative materials and other key mainstreaming interventions like dialogues, consultations and training. The results of the mainstreaming process look promising with the rights-based Magna Carta for the Informal Sector, which is now being pushed by different stakeholders, both duty-bearers and claimholders.

CHAPTER 4

CASE 2 – DEVELOPING SAN FERNANDO CITY AS A RESOURCE CITY FOR BEST PRACTICE IN RIGHTS-BASED LOCALIZATION OF THE MILLENNIUM DEVELOPMENT GOALS (MDGS)

Using a single design for case analysis, the case involved examination of the practice of HRBA in MDG localization at the city level including its barangay constituents. The same HRBA parameters were used to unleash the value added of the approach in local planning and local governance through the mainstreaming of human rights principles and standards corresponding to each MDG. Mostly covered under this case are rights guaranteed under ICESCR.

A. Overview of the Project Case

In September 2007, the NEDA approved a project of the CHRP linking HRBA and MDG localization. The project is a sequel to the Human Rights-Based Approach Localization Project of the Commission on Human Rights of the Philippines, which was initially implemented in the 15 Regional Offices of the Commission in 2005 under the Governance Portfolio of the United Nations Development Programme that was administered by the University of the Philippines-National College on Public Administration and Governance, as implementing partner of the UNDP. The Commission's Regional Office 1 submitted a follow through project on the HRBA Localization under the UNDP's Empowerment of the Poor Portfolio, with the end-in view of piloting the approach to MDG localization in a pilot city, this time under the National Economic Development Authority (NEDA), as the implementing partner of the UNDP. The project ran from September 2007 – June 2008

The project envisioned the transformation of San Fernando City in La Union, Region 1 as a resource city that links human rights to MDGs and to demonstrate it as a best practice for the mainstreaming of human rights in MDG localization.⁸⁸ The mission of the project is to adopt the human rights framework in the MDG localization from the barangay up to the city level by engaging in the process both the local government units and relevant government agencies as duty-bearers and the various sectors and local communities as claimholders.

1. Purpose of the Study

The case study examined and analyzed the project process and project outcomes as well as the fundamental structures and mechanisms that were put in place, which made possible the application of the Human Rights-Based Approach (HRBA) to MDG localization in Sn. Fernando City.

The case study seeks to achieve the following objectives:

- a. To identify specific interventions undertaken by CHERP- Region 1 by which the HRBA was applied in MDG localization in Sn. Fernando City;
- b. To identify and analyze the indicators that will point to the success of the HRBA as applied in the project;
- c. To document the experiences and challenges encountered by the project in applying the HRBA to the MDG localization in Sn. Fernando City;
- d. To determine the specific contributions of the HRBA to MDG localization in San. Fernando City; and
- e. To establish both the organizational and operational conditions that made possible the application of the HRBA to the project as well as the continued use of the approach in sustaining MDG localization in Sn. Fernando city.

2. Project Design

Overall, the project targets the transformation of Sn. Fernando City as a Resource City for Human Rights-Based MDG Localization. By transforming the city into a resource city, it means that the MDG plans being prepared from the barangay to the city level would be mainstreaming human rights principles, norms and standards through the cooperative interaction and participation of both the local duty-bearers and claimholders towards the full integration of the approach to local MDG planning, programming and budgeting in Sn. Fernando City.⁸⁹

The framework of the project⁹⁰ describes the process through which the HRBA would be implemented in Sn. Fernando City. The HRBA to MDG Localization in Sn. Fernando City would go through a series of systematic steps from the conduct of preparatory activities (Phase 1) that would orient both the duty-bearers and claimholder of MDG Localization in the City to capacity building (Phase 2), piloting in selected barangays (Phase 3), planning of HRBA-MDG localization (Phase 4), to manualize (Phase 5) and evaluation (Phase 6). The outcome of such as process as described in the framework would bring about some best practices in mainstreaming human rights principles, norms and standards in city governance, increased social accountability among the local duty-bearers, empowered local claimholders and peaceful and progressive city, among others.

3. Summary of Project Gains⁹¹

The project was able to demonstrate thoroughly the practice of HRBA in local action planning through the policy and institutional support of the city and barangay government units. This is one case that clearly illustrated the step by step actualization of HRBA in terms of mainstreaming human rights principles and standards as well as the obligations and entitlements of the government and civil society domains of local governance. The

HRBA process for MDG localization was instituted. However, the implementation remains to be seen.

4. Summary of Lessons Learned

Advocacy for the use of the HRBA for development and governance at the local level has long been initiated by the CHRP. Such advocacy was strengthened with the support of the Regional Development Council of Region I specifically in the aspect of MDG localization. Issuances and resolutions enjoining LGUs to support the initiative was not enough. A deliberate process of engaging the local government units as experienced by the SFDO was critical. Considering the autonomous character of the LGUs, local official could always decide in favor of any project by virtue of their mandates. The LGUs have their own power dynamics, which the project proponents, in this case the CHRP and the NEDA had successfully tapped. As experienced by the SFDO, application of the HRBA for MDG localization would require policy support in order to ascertain the successful cascading of the approach and the project from the city to the barangay level and vice versa.⁹²

While the project had successfully capacitated the CHRSC and had likewise, oriented the 59 barangays on the HRBA on how to mainstream the approach to the formulation of the MDG Localization Plans both at the city and barangay levels, much efforts to institutionalize the approach would be desired. These stakeholders were successfully introduced to the general HRBA framework and tools and how to use them in the different stages of the MDG planning, programming, budgeting and implementation. However, much is yet to be desired to progressively apply the principles, norms and standards of human rights in the MDGs. Such progressive application would require continuous coaching on the part of those knowledgeable on human rights. Thus considering the limited number of human rights workers as compared to the number of barangays and LGUs that need coaching in this aspect, the CHRP and the NEDA as project proponents might need to revisit various techniques and tools for intervention that would likely multiply coverage of their use.

B. Overview of the Project Proponent

1. Mission and key functions/services
 - a) Implementing Partner – NEDA SDS⁹³

For this project, the National Economic Development Authority (NEDA)-Social Development Staff serves as the implementing partner of the UNDP under the GOP-UNDP Empowerment of the Poor Portfolio.

b) Responsible Party – NEDA Region 1

NEDA Regional Office I (NRO I) was established on 10 February 1975 as one of the regional arms of the NEDA Central Office. As such, it serves as the technical and administrative arm of the Regional Development Council of Region I (RDC-I), a regional counterpart of the NEDA Board. The NRO I office is presently housed at the RDC/NEDA Building, Guerrero Road, City of San Fernando, La Union.

As Secretariat of RDC-I, NRO I coordinates the formulation of regional development plans, policies, programs and projects along the major functions of RDC-I. These are development planning, investment programming, project development, regional budgeting, and program/ project monitoring and evaluation. It also provides technical assistance to RDC-member agencies in mainstreaming innovative development concepts and processes. This is intended to ensure the effective delivery and implementation of critical programs and important policies, and the production of the required outputs.

NRO I produces major outputs such as the Medium - Term Regional Development Plan, Medium-Term Public Investment Program, Annual Regional Development Report, Quarterly Regional Economic Situationer, and Quarterly Regional Project Monitoring and Evaluation System Report. For a more effective delivery of services, NRO I conducts interactive sessions with its clientele groups through meetings, conferences, seminars, workshops, and trainings; undertakes field monitoring of critical projects; and provides technical assistance services.

c) Co-Partner Institution: CHRP Region 1

The Commission on Human Rights of the Philippines (CHRP) is an independent national human rights institution mandated to protect and promote human rights of all; engage in sustained efforts with organizational integrity and competency in seeking justice, reorienting agents of state along human rights norms, advocate and monitor government's compliance with its international treaty obligations on human rights and energize and engage civil society participation.

Its constitutional mandates are: Investigate, on its own or on complaint by any party all forms of human rights violations involving civil and political rights; Adopt its operational guidelines and rules of procedure, and cite for contempt for violations thereof in accordance with the rules of Court; Provide appropriate legal measures for the protection of human rights of all persons within the Philippines, as well as Filipinos residing abroad and provide for preventive measures and legal aid services to the underprivileged whose human rights have been violated or need protection; Exercise visitorial powers over jails, prisons, or detention facilities; Establish a continuing program of research, education and information to enhance respect for the primacy of human rights; Recommend to the Congress effective measures to promote human rights and to provide for compensation to victim of violations of human rights, or their families; Monitor the Philippine Government's compliance with international treaty obligations on human

rights; and Grant immunity from prosecution to any person whose testimony or whose possession of documents or other evidence is necessary or convenient to determine the truth in any investigation conducted by it or under its authority; and Request the assistance of any department, bureau, office or agency in the performance of its functions. The CHRP operates in all regions of the country.

2. Project Mandate, Structure and Processes

As provided in the project terms of reference and the accompanying Memorandum of Agreement among project partners, the implementation and management of all phases of the project are made possible through the following organization and staffing:

Council of Partners

- a) City of Fernando: City Mayor Pablo C. Ortega;
- b) CHRP Region 1 : Regional Director Anita M. Chauhan;
- c) NEDA Region 1 : Regional Director Leonardo Quitos;
- d) DILG Region 1: Regional Director Manuel Biazon;and
- e) NSCB Region 1 : Regional Director Irene Ubungen

MDG-HRBA Technical Working Group

- a) Focal persons from Sn. Fernando City: Atty. Verse Limos and City Legal Officer;
- b) Focal person from CHRP Region 1: Danilo Balino, Division manager for Promotion and Linkages;
- c) CHRP Region 1 Project Staff: Mrs. Celia Quedado, Mrs. Lorna Balino, Ms. Rosario Aromin, Mr. Jiesmar Coillado, Mr. Don Carlo Pena

City Human Rights Steering Committee (CHRSC)

- a) Chair : Hon. Mayor Pablo C. Ortega
- b) Vice Chair : Hon. Vice Mayor Pancracio Q. Nisce
- c) Members : All heads of the Executive Offices
All members, Sn. Fernando Sangguniang Panlungsod
Representative NGOs/Local City Councils/Rights
Claimholder/Faith-Based Sectors

C. Evidence-Based Application of HRBA in Project Implementation

The project was triggered with the issuance of a City Sanggunian Resolution providing for the creation of a City Human Rights Steering Committee (CHRSC) composed of the following: The City mayor as Chair, Vice Mayor as the Vice Chair, the City legal

Officer as the Focal Person and the city development planning officer, city local government officer, city agriculturist, CENRO, city health officer, city councilors, NGO members of the City Local Development Council and all Barangay Captains as members.

The Committee authorized the conduct of a capacity building phase of the project. Training for Trainors (TOT) was conducted for two days on February 19-20, 2008 at the Sangguniang Panlungsod Session Hall & People's Hall at Sn. Fernando, La Union. The different offices of San Fernando City including the CHR Education partners and the academe participated the training. The inputs given to the participants include the following modules: Module 1 – MDGs and Targets; Module 2 - Linking Human Rights to MDGS; Module 3 – HRBA and Application to MDG Localization; and Module 4 - Competencies for Effective Trainors and Facilitators. The trained trainors showed much appreciation for the knowledge they gained out of the lectures and activities during the training. Those who participated admitted their inadequate exposure to human rights, HRBA and MDGs but they expressed their willingness to learn.

The project at this stage was ably led by the CHRSC. They assumed the responsibility to undertake massive human rights learning and planning activities in all barangays covered by the city. They organized themselves, planned the barangay activities and run all activities with the guidance of CHRP-Region 1. The lack of knowledge and exposure on the part of the participants from different sectors of the city did not serve as a deterrent to the project. Instead, they were all open to learn more about human rights and their learning could be applied to the planning of MDG localization for the City of San Fernando.

Three (3) teams were formed from among the members of the CHRSC, academe, the entire local government sector and civil society organizations to include faith-based organizations. These three teams were tasked to manage the Barangay HRBA learning and planning sessions for MDG localization. As offshoot of the trainings, three (3) Pilot Barangay Rights-Based MDG Localization Plans in pilot barangays produced, namely: Bgy. Masicong, Bacsil and Catbangan. Compared to the learning sessions given to 59 barangays, the piloting in these three (3) barangays was more intensive. The capacity building intervention extended to these barangays include a two-day workshop per barangay, which was participated in by multi-sectoral groups composed of barangay officials and CSO representatives. The trained trainors administered the training with the assistance of the project staff. Each of the barangays produced a Rights-based MDG Localization Plan and targeted on-going projects in 2008 as the plan's jumpstart.

Also as part of the commitment of those who underwent training, they were tasked to cover the capacity building for 59 barangays on HRBA and MDG localization process. The 59 barangays of San Fernando City were clustered into three groups. Each cluster was given one day training on HRBA learning and planning for Rights-Based MDG Localization. The team of trainers that underwent the Trainers administered the three clusters of training at the barangay level. HRBA tools used during the training are: HRBA Situation Mapping, people's Rights Entitlements mapping of Duty-bearers and Claimholders and Rights-Based Planning.⁹⁴ Part of the learning sessions done at the

barangay level was the conduct of situation analysis, which entailed learning exercises in the areas of: identifying issues and problems, linking these to specific human rights, state obligations of duty bearers and entitlements of claimholders; and planning process to overcome these issues and problems through crafting of barangay plans and adoption of barangay-based indicators for a HRBA-based MDG localization Plan.

Thereafter, the barangay council to include those three pilot barangays passed their respective resolutions requesting the Sn. Fernando Development Office City Local Development Council to approve the Barangay-Rights-Based MDG Localization Plans. These resolutions with accompanying plan documents were presented to the ABC Barangay Captains in a special meeting held on April 30, 2008 attended by the CHRSC and the City Local Development Council. Under the chairmanship of the City Mayor, the Council approved the requests of the barangays on the approval of their respective plans. Some donors were also present during the meeting who initially made pledges to support selected activities in any of the barangays. While the activity covered all the 59 barangays only about 40 barangays produced Rights-Based MDG localization Plans. The human rights learning and planning activities had limited coverage in terms of content. It only touched on the basics of human rights and HRBA. Despite limitations on the human rights learning, the participants were still able to capture the basic orientation and guide for the Rights-based MDG localization planning through the use of the HRBA tools on Situation Analysis and Planning for MDG Localization. Human rights indicators setting was also introduced corresponding to each MDG and certain adaptations in the human rights indicators proposed at the regional level were done to suit city and barangay level human rights indicators per MDG⁹⁵.

The manualization⁹⁶ of the rights-based MDG planning followed to document the SFDO experience. The members of the CHRSC, selected City personnel, CHRE partners and project staff underwent a Manual Writing Workshop on March 25-26, 2008. A manual on Rights-Based MDG Localization was produced with the help of the project staff. This phase served as the documentation stage of the project. Though the city government underwent the writing workshop on the SFDO experience, the city government was not able to write the manual. It only gave inputs to the manual but the writing of the manual was undertaken by the CHRP-Region 1 project staff with the help of selected members of the academe.

During the documentation phase, the federation of 59 Barangay Human Rights Action Officers in SFDO was also capacitated on the project and was urged to submit a two-year plan, identifying among others, its monitoring responsibilities in the implementation of the Rights-Based MDG Localization Plans in Sn. Fernando City.

As part of the final stage of the project, partners met to review the accomplishments of the project as well as the various Barangay Rights-Based MDG Localization Plans that were submitted to the SFDO Local Development Council. The City local Development Council convened for a special meeting. The City Mayor accepted all the Barangay Rights-Based MDG Localization Plans for consideration of the council in the ensuing

planning and budgeting period of the city. A certificate of appreciation was each awarded to the Barangay Captains for their involvement and participation in the project. Donors were also present who expressed support to the Council. The process of finally integrating these plans into the city plan and budget is one critical phase not covered by the project. Whether or not these plans would finally land into the plan and budget of the SFDO is another matter, which remains to be seen. However, it is expected to be realized soon with the commitment extended by the City Mayor and the local officials and other members of the CHRSC who was responsible for shepherding the project process.

Finally on July 7, 2008, the project partners met and evaluated and closed the project. As a result of the evaluation, the Memorandum of Agreement governing the project was extended to provide further assistance to monitoring and the integration of the Barangay Rights-Based MDG Localization Plan, monitoring of the plans at the barangay levels by the Barangay Human Rights Action Officers (BHRAO) and the continuing institution building of the CHRSC.

D. Institutional Performance and Constraints ⁹⁷

As gathered from the various project documents, the project did encounter some issues, challenges, constraints and even risks. While the city ordinance, executive order and barangay resolutions proved to be useful, the personal commitment of local officials greatly mattered in the entire process of the project. The presence and the active involvement of local officials and the orientation into the HRBA made the mainstreaming of the approach to MDG Localization planning possible. It was very unfortunate that this was not achieved in Candon City. One big challenge encountered therefore, is how to sustain advocacy on HRBA as linked to MDGs to the LGUs and how to get their commitment to its operationalization like the SFDO experience. In the case of San Fernando City, both the legislative and executive offices were considered. The big challenge is how to get the approval of both parties: legitimacy from the legislative and commitment for implementation from the chief executive. The conduct of project orientation, trainors training and series of learning sessions on HRBA as applied to MDG localization would not be sufficient. HRBA demands continuous coaching of both duty-bearers and claimholders specifically on the application of human rights principles and standards both in situation analysis and planning for MDG localization.

Participation in the practice of HRBA is a prerequisite both from the perspectives of the duty-bearers and claimholders. Power relations between these two parties must be present in the operationalization of the approach. HRBA helps in establishing a collaborative ⁹⁸partnership of the two parties rather than a confrontational one. How to achieve this collaborative partnership between the two parties in the context and perspective of rights obligations and entitlements of the respective parties is a big challenge in the HRBA.

Initially there are two (2) target cities for the project: San Fernando City and Candon City. Project orientation and organization meeting were conducted for both cities. In the middle of the preparatory phase, Candon City was temporarily dropped. Candon City

could not make timely decision on the project partnership due to some political roadblocks. CHRP Region 1 pursued Sn. Fernando City, which was more receptive to undertaking the project. The project was deliberated and negotiated initially with the former Mayor of Sn Fernando, Hon. Mary Jane Ortega. The project was not approved during her term but during the term of Mayor Pablo Ortega, a relative of the former mayor. The new mayor was receptive to undertaking the project and a memorandum of agreement was finally forged and approved by the City Sanggunian of Sn. Fernando City. The project was institutionalized in the city through the creation of the CHRSC.

The non-inclusion of Candon City was quite a disappointment for the project. Candon City is perceived to be open to innovative approaches to governance considering the many projects it had undertaken with multi-donor support. The city government was divided as to adopting the project. Some members of the city government of Candon viewed the project as posing threat and burden as the project could bring additional responsibilities that may disrupt the currently perceived smooth operations of the city. Thus, to avoid further delays in the project implementation the CHRP- Region 1 Project Director pursued project partnership with San Fernando City.

In the case of San Fernando, the previous negotiations done on the project under the former mayor proved to be very helpful aside from the fact that then new mayor is a relative of the former mayor. A memorandum of agreement and terms of reference were already approved with the City of San Fernando as early as 2006 as an offshot of phase 1 of HRBA Localization project of the CHRP under the Governance Portfolio.

The project was a success in San Fernando City but not in Candon City. The power structure in the latter was not unanimous in its position on the project. As reported those one representing the traditional power structure did not welcome much the project compared to those coming from the less powerful sector who favored the project but their support did not cause much change in the position taken by the city government. On the other hand the project was quite a success in San Fernando City because of a number of factors. One major factor is that the city is the center of all regional line agencies to which CHRP-Region 1 has over a long period of time been effective collaborative partners in development and human rights activities. Another is because the entire city government underwent both the project orientation and trainors training and was made part of the CHRSC.

E. Evidence-Based Application of HRBA in Project Outputs and Outcomes

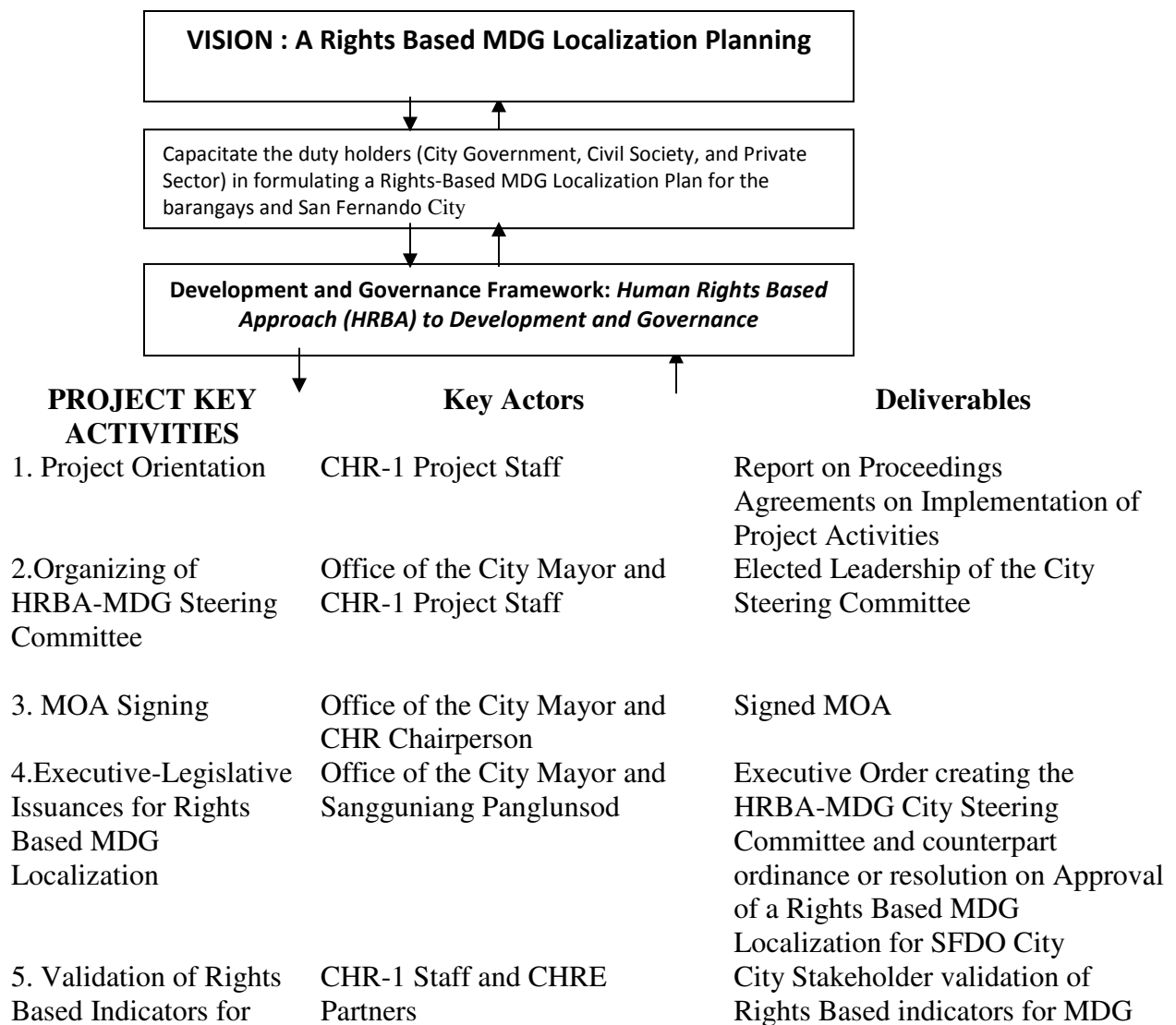
The following discussions analyze the human rights content of the project outputs and outcomes.

1. Content Analysis of the Project Framework: Linking Human Rights and MDGs in Poverty Alleviation

One unique feature of this project is the presence of a framework on HRBA specifically designed for the project. The framework suggests that the project is a precedent initiative that links development and human rights situated in local governance of San Fernando City. As envisioned under the project, the city was able to integrate HRBA in the city framework of governance and development, using MDG localization as the entry point. As stated in the project's objective, it is designed "to establish a strong human rights city constituency that will serve as a model among political subdivisions in the region for possible replication by other cities in the country especially in Rights-based MDG Localization."⁹⁹

The figure below explains the framework of the project, which was successfully operationalized in San Fernando City and its barangays having produced at total of 40 Rights-Based MDG Localization Plans out of the total 59 barangays of the city.

FIGURE 3: PROJECT FRAMEWORK¹⁰⁰



MDG Localization		Localization
6.Capacity Building of Key Duty Holders on HRBA Applications in MDG Localization	CHR-1 Staff and City Steering Committee	Capacitated Duty Holders for Mainstreaming human rights in MDG Localization Planning
7.Rights Based MDG Localization Planning Sessions	CHR-1 Staff, City Steering Committee and Corp of Trainers	Rights Base4d MDG Localization Plans integrating the validated rights based indicators (barangay and city levels)
8.Manualization of experiences and lessons gained	CHR-1 Staff, City Steering Committee and Writers	Manual for Planning a Rights Based MDG Localization for SFDO City

2. Content Analysis of the MDG Local Plans

A Rights-Based MDG Localization was instituted citywide. The core elements of the HRBA worked in the city. These are: identifying needs from human rights perspective, the claimholders and duty-bearers, the rights entitlements and the state obligation, as well as, the human rights principles that were applied in the process of operationalizing the approach. Most prevalent issues and problems under each MDG were linked to specific rights entitlements with appropriate identification of the concerned duty-bearers and claimholders. The tools that were used are Participative situation Mapping, People's Rights Entitlements Mapping, HRBA mapping of duty-bearers and Rights-Based Planning. Proofs of gains along this aspect are shown in Annex A & B, the highlights of which are as follows:

MDG1 – Eradicate Extreme Poverty and Hunger

Three interrelated human rights issues and problems were identified contributing to the vicious cycle of poverty in San Fernando City. These are low education, unemployment and low quality of life.

For low education, claimholders¹⁰¹ represented by four (4) vulnerable sectors were identified, namely: the farmers, fisher folks, informal sector and squatters. The identification of these vulnerable groups are in keeping with the human rights principle “*Attention to Vulnerable Groups*”, which is an inherent principle to the content of good and democratic governance. Corresponding state obligation was also pinpointed as the provision of free education for both elementary¹⁰² and high school.¹⁰³ Duty-bearers were also identified such as the Local Government Unit (LGU), Department of Education (DepED) who represented those with responsibilities in the realization of rights in the traditional or legal approach to human rights.¹⁰⁴ Local legislation and program constituted the rights-based measures¹⁰⁵ to make education affordable and available to all and to

ensure acceptability of teaching methods. These standards would be expected in the implementation of project initiatives such as balik-paaralan and scholarship for the poor.

For unemployment, the local populace from both the urban and rural communities of the city was recognized to have been affected by this condition. The right to work¹⁰⁶ was matched with this specific problem. The duty-bearers include the LGU, Department of Labor and Employment (DOLE) and other government lending institution. Specific state obligation identified is to make available appropriate financing assistance for livelihood projects.¹⁰⁷ As cited in the city plan, local legislation and program would be instituted bearing the following standards: right of everyone to the opportunity to gain his living, fair wages, equal opportunity for promotion and other working conditions. Also, as a step towards improving the livelihood of low-income families, micro-financing projects would be organized.

For low quality of life, the right to adequate standard of living, which includes the right to adequate food, adequate housing and adequate water as provided in Article 11 (1) was identified. The claimholders for this human rights issue are the local populace of both the urban and rural communities of the city. The duty-bearers are the LGU, Department of Agriculture (DA), City health Unit, Department of Social Welfare and Development (DSWD). Other non-state duty-bearer was also identified like the Gawad Kalinga. Essentially the provision of health care and financial assistance was the primary state obligations recognized to respond to this human rights issue on low quality of life. As a major project initiative to improve low quality of life in the city, a housing program is envisioned that would ensure availability of services, materials, facilities and infrastructure, as well as security of tenure.¹⁰⁸

MDG 2 – Achieve Universal Primary Education

Under this goal, the city perceived the lack of quality education in terms of insufficient teachers and school facilities and two other compounding problems relating to school dropouts and out of school youth. Children of school age are the most affected claimholders by these interrelated problems on education. The LGUs, DepED, City Schools, City Social Welfare and Development Office (CSWD) and the local police were identified as the primary duty –bearers to fulfill the city populace’s right to primary and secondary education. The right of every child to have sufficient functional educational institutions was identified as human rights standard to be applied to relevant local legislation and program to be formulated.¹⁰⁹ Initially, the city targeted the following education programs befitting of the education standards under Article 13 (2)¹¹⁰ of the ICESCR. These are the issuance of an ordinance providing for educational assistance, establishment of counterpart funds from LGU to finance salaries and other benefits of educators and the setting up of livelihood program in every school, provision of livelihood opportunities to parents, engagement of local non-government organizations to adopt a school program and the establishment of a data base on the education sector at the city level.

MDG 3 – Promote Gender Equality and Empower Women

The local issues on women constitute an array of concerns from violence against women, to inadequate health care and to lack of employment. The rights entitlements that were linked to these issues include non-discrimination of women¹¹¹, right to health, right to care/services, right to equality, development and protection and right to equal opportunities to work¹¹² and education¹¹³, which are in keeping with the interrelatedness and indivisibility principles of human rights. Specific state obligations identified include making available appropriate counseling services, provision of income for the abused, provision of health care to women and mothers and ensuring equal opportunities between men and women. Local legislations¹¹⁴ are identified to give effect to women's right to equality and right to enjoy and exercise all human rights without distinction of any kind, exclusion or preference. A package of project initiatives was identified to improve the status and well being of women in the city. These are livelihood project and small-scale business, augmentation of income of the abused, information dissemination of family planning, health care, nutrition, education and public information programs. The duty-bearers for these initiatives are the GAD, CSWD, LSB and the Commission on Human Rights of the Philippines (CHRP).

MDG 4 – Reduce Child Mortality

Three major issues were identified under this goal such as inadequate information on importance and availability of pre-natal care service, misconceptions on breastfeeding and irregular availability of antigens during scheduled immunizations. These issues were effectively linked to right to life¹¹⁵, right to health¹¹⁶, and right to observance of the best interest of the child¹¹⁷, which are reflective of the principles of interrelated and indivisibility of rights. Corresponding to the identified rights entitlements, the claimholders were likewise identified to include pregnant women, unborn child/infant, and lactating mother. Duty-bearers who are accountable were also identified such as the Department of Health (DOH), City Health Office, Barangay Health Center, Lying-in Clinics, BHW/BNS/BSPO/ SP Committee on women and Child/KIP Committee on women and the CHRP. Other stakeholders were also recognized to contribute to the resolution of the issues such as Tango, LUWI, Rotaries, Lions, Religious Sectors and the Academe. In solving the prevalent issues, rights-based initiatives were also prioritized reflecting the role of the LGU in performing the corresponding state obligations. These include local legislations¹¹⁸ specifically the adoption of resolution to encourage DepED and CHED to include IEC on the importance of pre-natal services and breastfeeding focusing on fertility awareness. Steps to meet the entitlements of the identified claimholders were also considered by the city government to include the continuous implementation of the pre-natal counseling, responsible parenthood, and mother's class.

MDG 5 – Improve Maternal Health

Under this goal, very basic issues and problems were raised affecting the wellbeing of women. These are low access to sexual and reproductive health services, low family planning and post and pre natal care services and maternal mortality. The entitlements raised related to these issues are the right to health and right to medical treatment

services¹¹⁹ right to information¹²⁰, as well as their interrelatedness to the right to special working privileges¹²¹ pertinent to maternal mortality. Mostly affected by these issues are low income-working women. Principally, the city government was identified as the duty-bearer but other stakeholders were also, recognize for their contributions such as the DOH, Population Commission (POPCOM, RPM, Family Planning Office/DSWD, Church, business sector and HEI. In full recognition of the state obligation to fulfill provision of reproductive health services, the city government considered adopting local legislation and program in the form of a Regular Appropriation Ordinance for health services and expanded program on immunization.¹²²

MDG 6 – Combat HIV/AIDS, Malaria and Other Diseases

The prioritized issues under this concern are pneumonia, PTB and COPD. Specific rights entitlements were identified relative to right to prevention, treatment and control of diseases and non-discrimination. As noted, pneumonia is the leading cause of mortality in the city. Out of 146 cases, 77 involve women and 69 men. With respect to PTB, of those 32 affected, 17 are women and 15 are men, including smokers. On COPD, 18 men are affected and 2 women. These concerns are of serious concern that the city government is considering the passage or enactment of a City Health Code covering provisions on the prevention, treatment and control of such diseases, and such other support services such as immunization, Information and Education Campaign¹²³ and procurement of medicines and facilities.

MDG 7 – Ensure Environmental Sustainability

The various issues raised under this goal are more complex. These include: unsegregated solid waste, air pollution due to smoke belching and ground water contamination affecting sanitation in the urban area; illegal fishing and unsegregated solid waste in the coastal areas; deforestation in the upland areas. Three rights were linked to these issues such as the right to quality of life, right to clean and healthy environment and right to a balanced ecology. The affected sectors concerning these issues are the households, commuters, all inhabitants, informal settlers/dwellers, fishermen and consumers. Identified duty –holder are the City government, City CENRO, DOTC, LTO, DENR, City Health Office, City Agriculture, CAO and TFSK. Other stakeholders were also identified such as the barangays, NGOs, GAS SWAPP, and Provincial Government, transport group, vendors association and farmers. Both legislative and program measures were prioritized by the city government. For local legislation, the passage of the Environment Ordinance or code was prioritized to respond to solid waste management in the city. The support administrative and program measures include the clustering of barangays, provision of facilities, livelihood, and subsidy to the barangay for gasoline and maintenance, collection system and continued operation of the City SWM Board and Barangay ESWM Committee and the institutionalization of Multipartite Monitoring Team. A related Environment Ordinance or code will also cover concern on air pollution and such other measures as micro financing of livelihood assistance, program for conversion of two strokes to four strokes and the regular updating of data records on ambient air quality monitoring. Also, a Sanitation Code will be

prioritized for the legislative action to improve sanitation in the city, and the continuance of mother's class, food handlers' seminars and system for issuance of certificates to applicants of permits. Similarly regular ocular inspections will be instituted and issuance of application denials to business projects.¹²⁴

MDG 8- Develop a Global partnership for Development

Remarkable issues and problems were noted under this goal as they affect the city. These issues are: lack of functional program that addresses the needs/welfare of the Out of School Youth (OSY), development servicing problem and inadequate knowledge, information and access to affordable medicines. The comprehensive rights to development¹²⁵ and selfdetermination¹²⁶ were linked to these issues. Generally, the less privileged and most vulnerable sectors of the city were considered affected by these issues with particular mention to the taxpayers and out of school youth. As the rights entitlements suggest interrelatedness and indivisibility of the human rights issues, a web of duty-bearers was also recognized consisting of the following: City and barangay governments, DSWD, academe, private sector. Additional stakeholders include other line agencies, NGOs and POs and other advocates. In order to implement the standards on the right to development, the City government envisioned the passage of a legislation institutionalizing non-formal education for the OSY, active people's participation and the conduct information dissemination to the city and barangay levels. Other administrative and program measures cover the conduct of participatory research on the OSY and other information dissemination media in print and broadcast both at the city and barangay levels.

3. Process Analysis of the Institutionalization of the Rights-Based MDG Plans

Resulting from the HRBA Learning and Planning for Rights-Based MDG, the barangay councils of 49 barangays including those of the three (3) pilot barangays passed barangay resolutions endorsing their respective Barangay Rights-Based MDG Plan, recommending its approval and endorsement to the City Local Development Council through the City Mayor. These were presented through the ABC Barangay Captain, which was jointly attended by the CHRSC and the City Local Development Council. All the barangay plans were adopted during such meeting conducted on April 30, 2008. There were some donors who expressed support to some selected activities. The tools that were used are Participative situation Mapping, People's Rights entitlement Mapping, HRBA mapping of Duty-Bearers and Rights-Based Planning.

**TABLE 5 – BARANGAY RESOLUTIONS ON RIGHTS-BASED
LOCALIZATION OF MDGS**

Barangay/s	Resolution No.	Date/s
1. Sn. Vicente	Res. No. 11, Series of 2008	April 26, 2008
2. Tanqui	Res. No. 28, Series of 2008	March 29, 2008
3. Sevilla	Res. No. 4, Series of 2008	April 13, 2008
4. Santiago Norte	Res. No. 8, Series of 2008	April 17, 2008
Barangay II, City of San Fernando	Res. No. 10, Series of 2008	April 8, 2008
6. Puspup	Res. No. 07, Series of 2008	April 15, 2008
7. Santiago Sur	Res. No. 11, Series of 2008	April 28, 2008
8. Catbangan	Res. No. 6, Series of 2008	April 12, 2008
9. Barangay 1, City of San Fernando	Res. No. 25, Series of 2008	April 13, 2008
10. Barangay III, City of San Fernando	Res. No. 08, Series of 2008	April 25, 2008
11. Camansi	Res. No. 03, Series of 2008	April 6, 2008
12. Bangbagolan	Res. No. 06, Series of 2008	April 12, 2008
13. Madayegdeg	Res. No. 19, Series of 2008	April 16, 2008
14. Pao Norte	Res. No. 07, Series of 2008	April 19, 2008
15. Cabarsican	Res. No. 5, Series of 2008	April 27, 2008
16. Bacsil	Res. No. 12, Series of 2008	April 6, 2008
17. Apaleng	Res. No. 8, 2008	April 25, 2008
18. Mameltac	Res. No. 9, Series of 2008	April 28, 2008
19. Nagyubuyuban	Res. No. 09, Series of 2008	April 6, 2008
20. Baraoas	Res. No. 12, series of 2008	April 27, 2008
21. Pao Sur	Res. No. 12, Series of 2008	April 20, 2008
22. Pacpaco	Res. No. 12, Series of 2008	April 28, 2008
23. Poro	Res. No. 20, Series of 2008	April 12, 2008
24. Parian	Res. No. 007, Series of 2008	April 13, 2008
25. Sacay	Res. No. , Series of 2008	April 23, 2008
26. Bida	Res. No. 11, Series of 2008	April 21, 2008
27. Sn. Francisco	Res. No. 13, Series of 2008	April 26, 2008
28. Namtutan	Res. No. 12, Series of 2008	April 12, 2008
29. Bato	Res. No. 09, Series of 2008	April 13, 2008
30. Bungro	Res. No. 11, Series of 2008	April 20, 2008
31. Bangcusay	Res. No. 05, Series of 2008	April 27, 2008
32. Langcuas	Res. No. 10, Series of 2008	April 20, 2008
33. Sibuan-Otong	Res. No. 10, Series of 2008	April 23, 2008
34. Tanguican	Res. No. 08, Series of 2008	April 27, 2008
35. Pias	Res. No. 11, Series of 2008	April 20, 2008
36. Abut	Res. No. 17, Series of 2008	April 27, 2008
37. Narra Este	Res. No. 02, Series of 2008	April 20, 2008
38. Ballangayan Este	Res. No. 7, Series of 2008	April 26, 2008

Barangay/s	Resolution No.	Date/s
39. Birunget	Res. No. , Series of 2008	April 8, 2008
40. Cabaroan	Res. No. 19, Series of 2008	April 20, 2008

All the 40 barangays produced their respective Rights-Based MDG Plans covering all the eight (8) goals for year 2009. However for manageability of the scope of this case study, only 30% of these barangays equivalent to 12 sample plans for at least one (1) MDG are herein presented:

- **Barangay Cabarsican**

For MDG 1, the lack of agricultural facilities is identified as most pressing issue that the barangay to right to work. Affected by this condition are the farmers and their families as the claimholder. The barangay identified the city Government, Barangay Council as the duty-bearers. The barangay officials estimated cost at P250, 000 for the purchase of agricultural facilities. Some of the rights-based performance indicators the following: Barangay resolution requesting for approval of project and budget allotment and formulation of Barangay Ordinance on mechanism for entitlement to the availment of the agricultural facilities by identified farmer beneficiaries.

- **Barangay San Vincent**

On MDG 1, this barangay identified the lack of water sealed toilets, which is affecting indigent families. This issue was analyzed as a composite of the right to health. The barangay identified the barangay officials, the City Health Office and the Sanngunian Bayan as the duty-bearers for the different initiatives that it prioritized to include the involvement and training of the out of school youth. To meet the quarterly targets set by the barangay, P100,000.00 was budgeted.

- **Barangay Tanqui**

For MDG 8, this barangay prioritized unemployment as its most pressing human rights issue, which it linked to entitlements of the right to work and right to development. The barangay earmarked P 250,000.00 for its employment generation project with quarterly targets. The barangay officials were identified as the duty-bearer. The barangay residents were identified as claimholders.

- **Barangay Sevilla**

For MDG 2, the barangay considered illiteracy as its primary issue. This was linked by the barangay to both the right to education and the right to development. Targeted on

quarterly basis will be the involvement of indigent families as the claimholders at a budget level of P50,000. The duty-bearers identified are the Barangay Council, City School Division, City CSWD, TESDA, NNC-RLA, DOLE-RLA. The barangay set as rights-based performance indicator the proportion of indigent families participating in functional literacy activities

- **Barangay Ilocanos Norte**

For MDG 1, this barangay prioritized illegal gambling as its most pressing human rights issue, which it linked with the right to adequate standard of living. Affected by this issue are children and family members. The project identified to respond to this issue is the provision of parental guidance, provision of livelihood training. The activities were targeted on quarterly basis with a total cost of P 10,000.

- **Barangay Santiago Norte**

For MDG 1, low income was identified by this barangay as its most pressing issue, which it linked to right to work. The claimholders identified were the barangay residents, while the City government and barangay officials were recognized as the duty-bearers. Rights-based livelihood project was the identified project targeting at least 25% of the unemployed barangay residents provided a comprehensive package of employment assistance.

- **Barangay II**

For MDG 5, the lack of health services was identified as most pressing issue that was linked to both right to life and right to health. It proposed for the establishment of a Botika sa Barangay (Free access of over the counter medicine) to service both low income earners and indigent families as claimholders. As performance indicator, the barangay identified the list of serviced indigent families based from the 2008 survey. The duty-bearers identified are the Barangay Council and its Committee on Health. P15,000 was budgeted for the initial set up of the Botika sa Barangay,.

Barangay Puspus For MDG 8, the poor condition of barangay roads was identified as a pressing problem. This problem was linked by the barangay residents to right to development and right to basic amenities of life. Concreting of barangay road is the identified project, which is expected to be done through the participation of the residents and through the help of concerned Congressman, Provincial Governor, City Government and Barangay Council.

- **Barangay Saoay**

For MDG 7, poor solid waste management is the identified issue, which the barangay linked to the right to clean environment and right to health. For this issue, the duty-bearers identified are the Barangay Council, City Environment Office, Provincial Governor and Office of the Congressman. Solid waste management is the identified

project. To facilitate implementation of the project, a Barangay resolution for the adoption of solid waste management is being considered, training of households and construction of MRF Facility. Seventy five percent (75%) of the household is being targeted to participate in the project.

- **Barangay Biday**

For MDG 2, the selling of liquor, which is affecting out of school youth is identified as most pressing issue. This issue is closely linked to right to life, right to peace and right to education, representing the interrelated concerns that affect the quality of life of the out of school youth and the community as a whole. As a response, the passage of an Ordinance was passed limiting safe and drinking of liquor outside the school vicinity. The SanggunianPambarangay and Sangguniang Panlungsod are the identified duty-bearers.

- **Barangay San Francisco**

For MDG 4, the need for Day Care Center is identified as most pressing human rights concern for children below school age, as its claimholder. This is classified under the Child right to development. Recognized as duty-bearers for the construction of the Day Care Center are the Barangay Council, City Government, Provincial Governor, Concerned Congressman.

- **Barangay Cabaroan**

For MDG 2, the issue is flooding, which affects the barangay residents of all barangay zones. This issue is linked to right to development. In order to respond to this issue the 318 out of school youth will be mobilized. P 500,000 is budgeted to cover the cost of this project

Gauging from these sample plans for some selected MDGs, the barangays had effectively identified the stakeholders of the issues and projects using the human rights perspective of claimholders and duty-bearers. The barangays had also understood the issues and problems that are prevalent in their respective barangays as these are linked to specific rights. The principle of participation was observed in the planning itself of the barangays. Involving the residents in the implementation of project initiatives is following the same principle. To some extent, a handful barangays were able to identify rights-based indicators, at the level of local legislation, administrative and program initiatives.

3. Content Analysis of the Value added of the HRBA.

One other unique feature of the project is its concept of initiating San Fernando City as a city where mainstreaming of human rights has become fully integrated in the planning, programming and budgeting process of MDG localization, with its actual and full

implementation done by both state (government) and non-state (civil society) actors. As claimed by the project its added values are shown below:

FIGURE 4 – VALUE ADDED FEATURES OF THE HRBA PROJECT¹²⁷

<u>On the project</u>	<u>HR PRINCIPLES MAINSTREAMED IN THE PROCESS</u>
Addressed to the city leadership Main beneficiaries are the local populace and communities, the city officials and the future generation of Filipinos. The local populace and communities are the actors of the project Power relations between local officials and local populace more defined in an objective manner based on accountabilities and responsibilities] Project defines quality of life of the local populace in terms of human rights standards for realization of MDGs	Accountability Empowerment Participation Transparency Non-Discrimination Attention to Vulnerable Groups Universality Equality Indivisibility Interrelatedness Interdependence
HR STANDARDS APPLIED Standards applicable to:	HR PRACTICES HIGHLIGHTED
Right to basic amenities of life Right to work Right to health Right to healthy Environment Right to participation Right to good governance Right to development Right to water Right to food Right to Education	HR Change management from top and below HRBA tools in situation analysis and programming Partnership and alliance building Constituency building Participatory planning HR Capacity Building Rights-based legislation

F. HRBA Indicators Generated from the Project

As experienced in the project, HRBA could very well enhance the quality of local governance and local development with respect to using the approach towards being more responsive to community conditions, as may be measured by the following indicators:

1. HRBA in Local Governance

- a) The degree to which accountability of local officials and agencies is expressly identified and matched with specific needs and problems of the local residents;
- b) The degree to which the application of HRBA is legitimized in terms of issuance of local ordinances, provision of budgetary support and led by local officials; and
- c) The magnitude of consultation instituted at the community level using the HRBA as framework and process using the available standard tools.

2. HRBA in Local Development

- a) The degree to which human rights awareness and consciousness of the local residents is raised;
- b) The degree to which applicable and relevant human rights normative content or standards are applied in each of the eight (8) MDGs; and
- c) The degree to which HRBA could be applied in annual local planning and budgeting as a means to ensure progressive improvement of the quality of life of local residents

G. User Satisfaction on HRBA

The proponent shared that the application of HRBA in the Localization of the MDGs was the fruit of the consistent lobbying of the CHRP Regional Office in Sn. Fernando City. Through the exposures of local agencies and LGUs in various seminars and trainings conducted by the CHRP at the Regional level, all LGUs in Region 1 got strongly convinced of the application of the approach in their planning, programming and policy making. The local agencies concerned with the implementation of relevant International Human Rights Treaties, guided the LGUs in applying the approach and in the process implemented the appropriate provisions of the treaties on particular issues being addressed by the LGUs

However, the proponent recognized that the approach was difficult to sell in the beginning. The Regional Office had to contend with the dearth of information and education materials on HRBA. The Regional Office had to be self-reliant in developing and reproducing education materials on HRBA. At the onset, there was resistance to the use of the approach because of some misimpressions that the approach is a new prescription. The relentless effort of the Regional Office to continuously engage the Regional Agencies in studies, fora and conferences made them realize the added value of the approach to the traditional way of doing their local planning.

The proponent is strongly convinced that the HRBA introduced a human rights focus for local legislations. The LGUs are starting to learn to refer to the applicable human rights standards contained in the international treaties in the formulation and passage of ordinances. The human rights standards were also to some extent applied to the local MDG targets. The MDG targets have been given more definitive planning approach through an effective identification and involvement of concerned duty-bearers and claimholders to fulfill and realize the implementation of the city plan, which was done in all barangays and legitimized through the passing of Barangay Ordinances for the purpose.

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The proponent recommended that the legislation on HRBA should be given priority both at the national and regional levels. Appropriate agencies should lobby with Congress the integration of the HRBA as an approach to regional planning and programming.

Simultaneous efforts must be done at the Regional Development Councils. Lobbying and advocacy for the issuance of appropriate resolutions by the RDC could help facilitate the application of the approach by the member agencies of the Council as well as, the LGUs.

H. Lessons Learned on the Application of HRBA¹²⁸

The lessons learned from HRBA practice in SFDO are very rich in so far as their contribution to local development and governance. SFDO was equipped with criteria and guide in terms of defining local development needs and problems and in enabling the different participating governance stakeholders on how to address them through matching of their respective mandates.

1. Positive Role of the Local Government Units

The SFDO experience demonstrated the positive intervention of government that can help bring about rapid changes in living condition of the people of SFDO. If and when the city government adopts appropriate budgets for the various Barangay Rights-Based MDG Localization Plans, chances are the provision of opportunities to improve the delivery of the MDG targets along livelihood opportunities, education, health care and other social and economic entitlements as identified by all the barangays would be achieved. Proofs to this positive role of the local government of SFDO are the various city ordinance, executive order and barangay resolutions that institutionalized the process of the HRBA in MDG planning at the local level. The process that the SFDO underwent under the project reflects the type of governance in the city. It indicates the increasing role of the state and the local government's recognition of its obligations under the various International Human Rights Treaties in dealing with poverty to help the poor and the marginalized sectors of the city. Thus, it would be expected that despite economic growth at the national level, the SFDO could expect improvement of the quality of life in its constituent barangays through its concerted programs and projects on the MDGs. Such experience of the city could prove later that improvement of quality of life of the

poor especially in developing country like the Philippines could be achieved through government intervention despite overall sluggish economic growth in the country.

The SFDO from the city to the barangay level had adopted a reorientation of their perception of the issues and problems confronting their constituencies in the context of rights. During the Rights-Based MDG Localization Planning, the barangay communities were allowed to freely go through the process of identifying the rights affected involved corresponding to each of the issues and problems they raised¹²⁹.

Support to the project was mobilized through the able leadership of both the CHRSC under the City Mayor and other local officials and the collaboration and technical assistance provided by the regional offices of the CHRP, NEDA and DILG. Specifically noted is that each and every act to mobilize the people in the city is legitimated by the issuance of city/barangay resolutions.

Worth mentioning is the impressive acceptance of the project by the City government and the barangay councils. Mobilization for this project could not have been possible if not for the long years of human rights advocacy undertaken by the CHRP-Region1 and its sustained collaborative relationships with both the government and civil society sectors of the city up to the regional level.

2. Human Rights Content of the Outputs

The city/barangay MDG plans are very much rights-based in terms of content. Particular rights guaranteed under each of the MDGs were defined based on their core content under the relevant International Human Rights Treaties as evident in B.4 Part IV of this Case Study. These norms are also reflected in selected human rights indicators adopted by the pilot barangays. By merely recognizing the specific rights involved in the MDG targets suggests that every one should enjoy this right and that certain standards for the enjoyment of these rights should be met and that the government, in this particular case the SFDO has the obligation to do its best to ensure their realization in the long run.

3. Institutionalization of HRBA

Through the HRBA process adopted in SFDO, the relation between the barangay people as claimant of rights and the local government and agencies that have the obligation to provide services was established.

The CHRSC project organization and its composition are indicative of the level of the institutionalization of the project in the SFDO. The representations of the different members of the Committee show the level of participation and involvement of both the power structure at the local level including the local agencies and the civil society organizations. This organization is more than enough guarantee to say that the project had been institutionalized that is properly supported by city ordinance, executive order and barangay resolutions. The Committee's functions are not limited to the formulation of barangay plans. Its responsibilities extend further to facilitating the inclusion of the

various plans to the City Rights-Based MDG Localization Plan and the monitoring of the implementation of such plans both at the barangay and city levels. The adoption of the city and barangay resolutions was the major policy initiative that was put in place that warranted a citywide Rights-Based MDG Localization Planning. These resolutions provided the organization and operation support to the citywide capacity building and planning activities.

4. HRBA Methods and Tools

At the city levels the HRBA Situation Analysis tool was practiced prior to the crafting of the MDG localization Plans. Various human rights issues and problems under each of the MDGs as experienced by the barangay communities were identified. After which relevant rights applicable to the issues were matched and analyzed by pointing to the concerned duty-bearers and claimholders of the rights. Similarly, using the HRBA Planning Tool for MDG Localization, applicable programming standards that were based on the core international human rights treaties were done including an identification of rights-based measures, rights-based project initiatives and performance system. This was done during the capacity building at the city level. Moreover, the same tool for a Rights-Based MDG Localization was used covering 59 barangays. As earlier mentioned these resulted to 40 barangay Rights-Based MDG Localization Plans. The manual produced by SFDO-CHRP, more or less captures the HRBA methods and tools used in the project, which would be worth reviewing for possible standardization.

5. Role of CHRP in Institutionalizing HRBA

The management of the project unfolded through the catalytic role of CHRP-Region 1. It served as the city external advisor in the implementation of the project from the time the project was institutionalized through issuance of a city ordinance, to the presentation of all the Rights-based MDG Localization plans of all barangays to the city government. The CHRP- REGION 1 provided the framework and approach to operationalize the concept of a Human Rights Resource City. The orientation into the application of the perspectives of duty-bearer and rights-holder was widely introduced in the city proper and the constituent barangays. The mainstreaming of the human rights principles and standards, as well as the practice of the HRBA was institutionalized at the city and barangay levels through the diverse capacity building interventions undertaken by the CHRP-Region 1 through the CHRSC. The entire sequential steps of operationalizing a Rights-based MDG Localization Planning were done through a handholding process of the CHRP-Region 1 with the CHRSC.

In order to manage challenges and problems encountered by the project, social marketing of HRBA must be pursued prior to undertaking the project to ensure its acceptance by the local government. In which case more direct advocacy to LGU power holders is inevitable before an HRBA project can be offered for partnership. Coaching program to be designed and conducted by human rights specialists should be part of this type of project. As in the case of the SFDO experience, it is not enough that people are made to

undergo training. Continuous coaching should warrant sustainability of the application of the HRBA for MDG localization especially during the implementation of the plans.

As part of the Philippine commitment to support all Human Rights-Based Approaches in the country, the Presidential Human Rights Committee, which is tasked to undertake the implementation and monitoring of the country's obligations under the various international Human Rights treaties should be able to adopt policy on HRBA for MDG Localization engaging both the NEDA and DILG at the forefront especially at the local government levels, with the CHRP performing advisory role.

At the local level, the institutional arrangements done at SFDO would be ideal to bring about cooperation between the legislative and executive offices in ensuring massive engagement of participation among the constituents to include all sectors and civil society, in general.

As practiced in SFDO, the process is worth following as a model for replication by other local governments. Although, it would be best that each local government should be encouraged to evolve its own process. As evident in SFDO experience, some personalities like the CHRP Region 1 Project Director, the City Mayor, the cooperation given primarily by the NEDA, DILG and other line agencies were major elements that contributed to the initial success of the project.

5. Sustainability and Replicability of SFDO Experience

Sustaining the initiatives both at the city and barangay levels is of great magnitude. While the city and barangays had successfully oriented local communities and stakeholders on the Rights-Based MDG Localization, much yet are to be desired in terms of deepening the capacity of the local leaders in ensuring that human rights standards, entitlements and obligations of the identified duty-bearers will be implemented in both the content and process of formulating and implementing the various legislative, administrative and program measures identified both at the city and barangay levels.

The Rights-Based MDG Localization Guide could possibly sustain the initiatives but more massive information and education campaign would be required. One experience, though impressively massive as like what happened, would need nurturing at least at the level of local leaders of both the city and barangay government units.

The repetitive processes experienced at both the city and barangay levels had defined a new power relation between the local populace (claimholders) and the local government units (duty-bearers). Their awareness as to their obligations and responsibilities corresponding to identified local issues and problems had been more defined in terms of relevant human rights standards. Thus, it is expected that the city/barangay government would be more accountable in performing their responsibilities to respond to these issues and problems, while the local populace and selected sectors would be equally responsive

in exercising their rights and giving their contributions to the solution of the issues and problems more consciously and responsibly.

From the outcome of the pilot project, more deliberate interventions should be jointly undertaken by the project partners such as: CHRP, NEDA and City LGU in terms of the following:

Support plans and programs for the institutionalization of the project gains would be inevitable. Such support plans and programs should be along the following interventions: follow through of the capacity –building seminars/training to city and barangay officials; massive information and education campaign on the Rights-Based MDG Localization Guide among city and barangay populace; follow through on the various local legislations commitment both at the city and barangay levels in terms of issuance of ordinances/codes; follow through on the resource requirements of the Rights-Based MDG Localization plans at the city and barangay levels in terms of the annual appropriation of the required budgets; and strengthening and consolidation of the indicators and tracking systems identified for the monitoring and evaluation of the Rights-Based MDG Localization Plans both at the city and barangay levels.

The NEDA under the GOP-UNDP Empowerment of the Poor Programme should consider a phase 2 of the capacity building of city and barangay officials. Nurturing of the plan would greatly depend on the capacities of local officials to guide both the human rights content and process of developing and implementing the various legislative, administrative and program measures prioritized by the city and its barangays.

This initiative should give focus to strengthening the project organization both at the city and barangay levels. Regular consultations and dialogues among the stakeholders should be able to empower the project organization. A performance score board system would have to be instituted to strengthen the accountability especially of the identified duty-bearers of the various measures identified under the city and barangay Rights-Based MDG Plans. The system should be the key to institutional strengthening focused on the established accountabilities under the plan. This should be matched with city and barangay assemblies for the public reporting on the progress of implementation of the plan, as well as the public rating on the performance of accountable agencies. To be incorporated into the system is a technique to gauge the contributions of the local populace to the achievement of the Rights-based MDG Plan.

The fact that the Rights-Based MDG Localization Planning was successfully carried out in San Fernando City gives a glimpse of hope that the same could possibly work in other local government units. However, replication would not be as easy as one could imagine. This pilot project is so massive not only in terms of area coverage but more so, in terms

of the local commitments that were effectively mustered. Replicability of the approach requires almost the same ingredients although context may differ in terms of local conditions in other LGUs. Ingredients here refer to the organizational strategy, which involves the top agencies and highest local executives of the city and the barangays. In addition, a combination of strategies would be much desired for replication. Such mix could be designed by concerned LGUs contemplating to replicate the approach for MDG localization. In order to come up with this desired combination of strategies concerned LGUs would have to do their own assessment of the San Fernando City experience and draw their respective implementation design and plans. The common strategies, which could be adapted, include the project organization, the capacity building activities, the community mobilization from city to barangay level and the actual process of Rights-Based MDG Localization Assessment and Planning using the selected HRBA tools. Foremost, the partnership and collaboration achieved by the CHRP with the NEDA and LGU of San Fernando City would feature in any replication design for this pilot project.

Gauging from the case, the HRBA conceptual framework, as well as its operational definition proved to be effective. The heavy use of HRBA tools at various stages of the MDG local planning made possible the mainstreaming of appropriate principles, normative content of rights and operationalization of the obligations of local agencies and entitlements of the vulnerable groups. This is one project where the CHRP proved to be effective as agent of HRBA with the apparent and consistent HRBA advocacy at the city and barangay levels. Stakeholders were deliberately put together in planning dialogues, as well as, consciously mapped out to fit each and every plan of action to apply human rights in each of the eight (8) MDGs.

CHAPTER 5

CASE 3 – PILOT PROJECT ON THE RIGHT TO FOOD

This chapter deals on a case involving one of the most pressing priority rights under the ICESCR. In this case, the CHRP demonstrated its attempt to apply HRBA on the Right to Food, engaging in the process the various government agencies and non-government organizations with related mandates.

A. Overview of the Project Case

During the closing phase of the 1st cycle of the GOP-UNDP Governance Portfolio, the Commission on Human Rights of the Philippines (CHRP) implemented the Right to Food Project under the Right to Development Programme of the Portfolio. The project is one major initiative under the Portfolio, which sought to develop the capacities of government agencies in undertaking a Human Rights-Based Approach to development. The project was a pioneering project to demonstrate how the approach works in operational terms. It was given highest priority by the Commission since it is oriented towards addressing the human conditions of the poor and marginalized sectors of the Philippine society.

1. Purpose of the Study

This case study seeks to present the process and the outcome of applying the HRBA particularly in the most crucial concern of the government – RIGHT TO FOOD. Specifically, the study will attempt to show the following:

- a) The framework, process and tools that were adopted by the Commission in engaging concerned government and non-government organizations; and
- b) The output or outcome achieved by concerned government and non-government organizations in applying the HRBA in the context of their functional jurisdiction relative to fulfilling the Philippine State obligation under the International Convention on Economic, Social and Cultural Rights (ICESCR), specifically on the Right to Food.

2. Project Design

Initially, the Commission conducted an inventory analysis of all related government and non-government organizations that have mandates and/or stake on the Right to Food, which were referred to as the “Food Partners”. These include the Department of Agriculture (DA), Department of Agrarian Reform (DAR), Department of National Defense (DND), Department of Environment and Natural Resources (DENR),

Department of the Interior and Local Government (DILG), Department of Labor and Employment (DOLE), Department of Public Works and Highways (DPWH), Department of Science and Technology (DOST), Department of Social Welfare and Development (DSWD), Department of Trade and Industry (DTI), National Anti-Poverty Commission (NAPC), National Food Authority (NFA), National Economic and Development Authority (NEDA), Office on Muslim Affairs (OMA), KAISAMPALAD, Food First Information Action Network (FFIAN), Philippine Alliance of Human Rights Advocate (PAHRA), Philippine Human Rights Information Center (PhilRights) and Task Force Detainees of the Philippines (TFDP). Following an orientation on the ICESCR and the specific provisions relative to the Right to Food, a series of formal and informal dialogues and consultations were conducted involving these government and non-government organizations. These consultations focused on a thorough review and analysis of all existing food indicators of participating organizations vis-à-vis the human rights core content of the Right to Food, as enunciated in the ICESCR. The project culminated with the holding of a Validation Workshop. The refinements of the final outputs were undertaken by a Technical Working Group (TWG), which was constituted from among the participating organizations.

3. Summary of Project Gains

Using HRBA, the project produced results, which to a limited extent, met the process on how HRBA is promoted and operationalized. Content wise, however, the project results did not adequately qualify with the rights-based development indicators that were expected from the project.

Process wise, though, the identification of the organization's respective roles in fulfilling state obligations on the Right to Food under the International Convention on Economic, Social and Cultural Rights (ICESCR) was achieved but failed to adequately define substantial contents of the obligations based on the normative content of the right to food.

The proposed indicators on the Right to Food (RTF) were drawn from the consensus of the participating organizations vis-à-vis the criteria on the right to food but failed to give human rights orientation into the development indicators drawn by the participating agencies and organizations. The project only made a categorization of the existing development indicators according to the RTF criteria such as accessibility, adaptability, availability, adequacy, sustainability and safety.

4. Summary of Lessons learned

The government still follows development indicators to measure its compliance with the state obligations on the Right to Food. Government organizations tasked to develop and implement policies and programs have yet to come up with a set of indicators that can adequately provide a reliable approximation of the government's performance with respect to the right to food. There are numerous government bodies at the national and local levels that are responsible for responding to government's obligation on the right to food with no single body specifically mandated to monitor report and assess performance

in relation to the core obligations of the state as embodied in the ICESCR.¹³⁰ Under Executive Order 163, which provided for the strengthening of the Presidential Human Rights Committee, the National Economic and Development Authority (NEDA) was mandated as the lead agency to monitor the government's compliance with the ICESCR. However, much is yet to be desired in terms of equipping NEDA to be able to oversee how government, through its various concerned agencies, will be able to operationalize the normative standards on the Right to Food, in terms of progressive programming, target setting and resource allocation.

The fulfillment of the state obligations on the Right to Food is a big challenge. Considering the present state of poverty and hunger in the Philippines, much of the food-related programs of the national government are focused more on their implementation as they respond to particular needs rather than on the fulfillment of the normative content or standards of the Right to Food.

The categorization of the development indicators along the RTF criteria is just the beginning. It is imperative that CHRP in cooperation with the NEDA and other agencies with RTF mandates be convened to transform these development indicators to be compliant with human rights standards. Having established the indicators will not suffice to truly assess the level at which the Philippines is complying. On the basis of the indicators, baseline information will have to be established vis-a-vis the normative content of the Right to Food as to adequacy, sustainability, availability, accessibility, safety, acceptability, and cultural adaptability

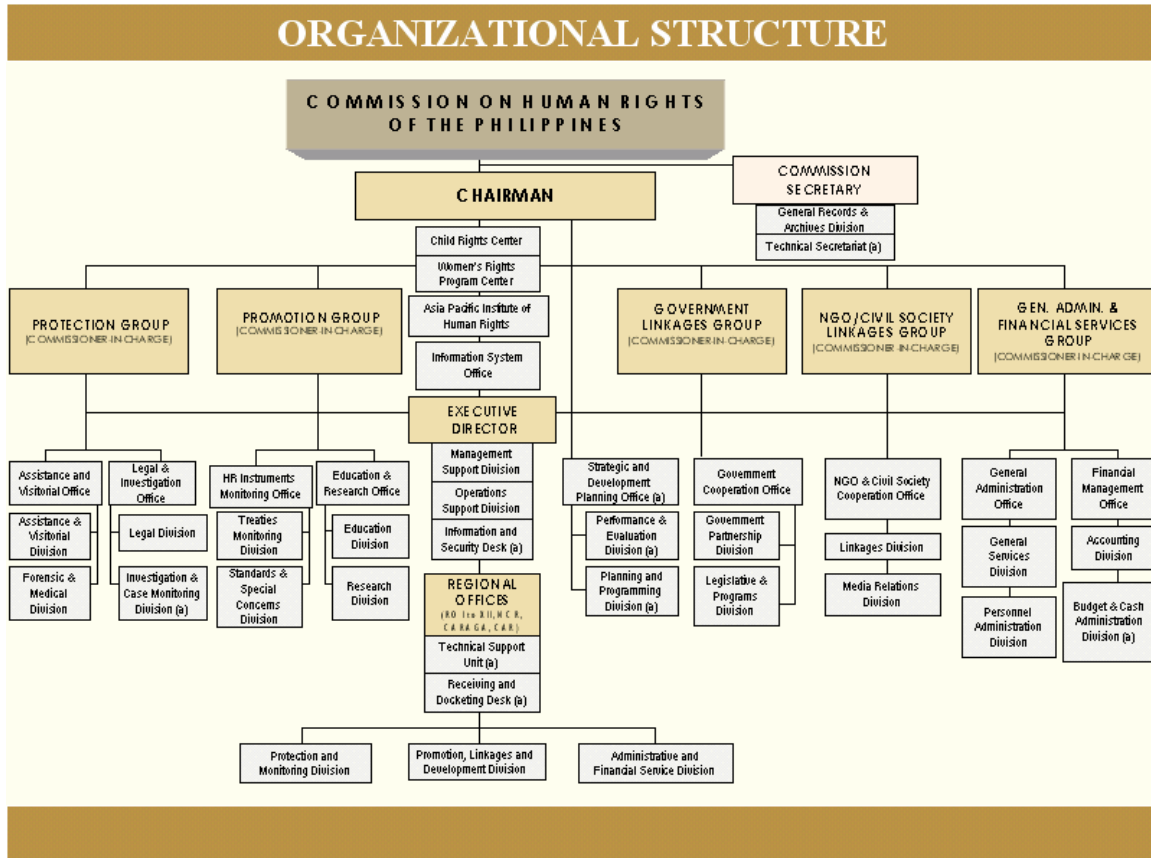
B. Overview of the Project Proponent

1. Mission and key functions/services

The Commission on Human Rights of the Philippines is an independent office created by the Constitution of the Philippines, with the primary function of investigating all forms of human rights violations involving civil and political rights in the Philippines. Under Section 18, Article XIII of the Philippine Constitution, the Commission is mandated as follows: investigate on its own or upon complaint, all forms of civil and political rights violations; issue subpoena and subpoena *duces tecum* consistent with its own rules and operational guidelines; provide appropriate legal measures for the protection of the rights of all persons in the Philippines as well as Filipinos living abroad and set up preventive measures against human rights violations; provide legal aid to the underprivileged whose rights have been violated or need protection; visit jails and detention centers to look into the plight of prisoners and detainees; establish a continuing program of research, education and information to enhance respect for human rights and recommend to Congress effective measures human rights; and monitor the Philippine government compliance with its international treaty obligations on human rights. Its organization programmes and services are along four main areas: Human Rights Protection; Human Rights Promotion and Human Rights Linkages Development and Strategic Planning.

Structure and Processes

FIGURE 5 : CHRP ORGANIZATIONAL STRUCTURE



C. Evidence-Based Application of HRBA in the Project Implementation

While the subject matter of Right to Food is fundamentally “rights-based”, it needed the application of an approach that displayed a mainstreaming process of the human rights normative content on the Right to Food to the mandates of relevant government agencies in the process. However, the application of HRBA in this case is much wanting as it failed to really improve on the existing development indicators identified by the participating agencies based on the relevant normative content of the right to food to which these indicators were matched. It merely solicited the contributions of non-government organizations with specific related missions and services to perform certain level of \State obligations for the realization of the Right to Food by the poor in the country.

HRBA application was done through staggered sessions and meetings convened by the CHRP. As evident in this case, there was a leveling of understanding of the HRBA among the participating government agencies focusing on its core elements like the

normative content of human rights, levels of state obligations, rights entitlements, duty-bearers, claimholders, human rights indicators setting and the like. Thereafter, these agencies and other participating NGOs conducted a prioritization of the Right to Food among a whole range of rights guaranteed under the ICESCR. This was followed by a mapping of all government (duty-bearers) and non-government organizations (non-state duty-bearers) with relevant mandates and missions for the realization of the Right to Food as a self-assessment tool, which enabled institutions concerned to determine their specific accountabilities in the realization of the Right to Food. At this point, government agencies brought in relevant development indicators on the Right to Food categorized along the criteria of adequacy, availability, sustainability, accessibility and safety. This mapping of development indicators was done at the input, activity, output and outcome levels.

Based on this application of HRBA, the CHRP proceeded by seeking the commitments and plans of both government (duty-bearers) and non-government organizations (non-state duty-bearers) corresponding to the three level of Right to Food obligations: Respect, Protect and Fulfill. Through this project, all relevant agencies were able to identify under which of their mandates, roles, function, programs and services would they be able to achieve the Right to Food. In the official comments received from the NEDA, it recognized that the agency is part of the “RESPECT” state obligation on the Right to Food. Under this obligation, it identified its contributions to the six (6) core contents of respect, in terms of policy/plan formulation, program/project evaluation and sectoral/program/project monitoring and evaluation. On the part of the Department of Trade and Industry through its Bureau of Trade Regulation and Consumer Protection (BTRCP), it identified their contributions to the realization of the Right to Food under three levels of human rights state obligations. For “RESPECT” obligation, the DTI through the BTRCP recognized its role as the prime mover of consumer welfare, to protect the interests and welfare of the Filipino consumers, thus, ensure the right to basic needs, specifically, a steady and affordable supply of basic and prime necessities. For “PROTECT” obligation, the DTI through BTRCP expressed its commitments to protect the rights and interests of the consumers from trade malpractices, BTRCP formulates programs, sound policies and guidelines to create an environment, which is favorable to both business and consumers. For “FULFILL” obligation, the DTI thru BTRCP oversees the effective implementation of all trade and industry and other consumer related laws. On the other hand, the Department of Agrarian Reform and Department of Agriculture and its attached agencies merely provided the bases for classification of their respective roles in complying with the state obligations of the Right to Food, but there were no specifications as to the levels of obligations as presented by both the NEDA and the DTI.

D. Institutional Performance and Constraints

The powers of the CHRP in relation to the ICESCR is limited by jurisprudence particularly in the landmark case of *Simon vs. CHR*, where the Supreme Court of the Philippines categorically declared that the Commission on Humans Rights is envisioned by the Constitutional Commission to focus its attention and priority to the more severe cases of human rights violations such areas as the "(1) protection of rights of political

detainees, (2) treatment of prisoners and the prevention of tortures, (3) fair and public trials, (4) cases of disappearances, (5) salvaging and hamletting, and (6) other crimes committed against the religious. However, in keeping with its functions as a national human rights institution with an “A” accreditation and consistent with its constitutional mandate of monitoring compliance of government with its international human rights obligations, the Commission embarked on “investigative monitoring” on all other issues, problems and complaints involving violations of the ICESCR.

This jurisprudence brings us to a bigger concern. Under the international human rights system, the CHRP as a national human rights institution is tasked to perform its role in the protection of economic, social and cultural rights. Item 1 of General Comment 1 of the ICESCR provides that *“Article 2, paragraph 1, of the Covenant obligates each State party ‘to take steps ... with a view to achieving progressively the full realization of the [Covenant] rights ... by all appropriate means’. The Committee notes that one such means, through which important steps can be taken, is the work of national institutions for the promotion and protection of human rights. In recent years there has been a proliferation of these institutions and the trend has been strongly encouraged by the General Assembly and the Commission on Human Rights. The Office of the United Nations High Commissioner for Human Rights has established a major programme to assist and encourage States in relation to national institutions.”*

This is one role of the CHRP, which is largely undermined in terms of budget appropriation from government. Its monitoring function in relation to the government’s compliance with international human rights treaties is not adequately supported. Apart from monitoring the implementation of these treaties is the role of national human rights institutions like the CHRP is to assist and advise the government on the implementation of the treaties. Specific to the ICESCR, General Comment 5 (3c-g) of the ICESCR states the following roles for the national human rights institution: providing technical advice, or undertaking surveys in relation to economic, social and cultural rights, including at the request of the public authorities or other appropriate agencies; identifying national-level benchmarks against which the realization of Covenant obligations can be measured; Conducting research and inquiries designed to ascertain the extent to which particular economic, social and cultural rights are being realized, either within the State as a whole or in areas or in relation to communities of particular vulnerability; monitoring compliance with specific rights recognized under the Covenant and providing reports thereon to the public authorities and civil society; and examining complaints alleging infringements of applicable economic, social and cultural rights standards within the State. Further item 4 of said General Comment 5 provides that the Committee, referring to the treaty body of the ICESCR, calls upon States parties *“to ensure that the mandates accorded to all national human rights institutions include appropriate attention to economic, social and cultural rights and requests States parties to include details of both the mandates and the principal relevant activities of such institutions in their reports submitted to the Committee.”*

Despite these limitations in relation to the above mentioned Philippine jurisprudence, as well as, the inadequate funding support to the CHRP's related functions to the monitoring of compliance by the Philippine government with international human rights treaties, the CHRP embarked in a precedent setting pilot project that engaged relevant agencies of government and other non-government organizations in a pioneering study related to its role as provided under the above stated provisions of ICESCR General Comment 5 (3c-g). With very meager funding support from the Right to Development Program under the GOP-UNDP Governance Portfolio as earlier discussed in the introduction of this case study, the CHRP was able to engage relevant stakeholders on indicators setting on the Right to Food, which is one major right guaranteed under the ICESCR.

E. Evidenced-Based Application of HRBA in Project Outputs and Outcomes

The presentation of government's state obligations on the Right to Food through a "mapping" methodology allows human rights advocates to draw out from among the duty-bearers their roles in the respect, protection and fulfillment of the Right to Food. The project oriented the mandates and purposes of agencies and NGOs along the standards and obligations of the Right to Food.

The process of mapping itself gave government agencies the opportunity to view their mandates from the human rights perspective and analyze them vis-à-vis the normative content of the right. However, the mapping method proved to be insufficient. While agencies acknowledged their respective level of obligations with respect to the right to food, the obligations identified were rather superficial needing more in-depth study and rigorous process.

1. Content Analysis of the Right to Food Mapping

The Department of Labor and Employment (DOLE) was able to see that employment is a step towards ensuring "accessibility". Based on its mandate, the DOLE recognizes its role in relation to the right to food in terms of ensuring that workers are capacitated to buy/purchase the food they need. Thus, the agency is responsible for ensuring that jobseekers have access to employment opportunities, either in wage or self-employment (livelihood assistance); equipping workers with demand-driven skills and technical education; preventing job losses due to labor disputes; and ensuring fair and just terms and conditions of employment, both for local and overseas workers.

The Department of Trade and Industry through its Bureau of Trade Regulation and Consumer Protection (BTRCP) relates the state obligations of respect, protect and fulfill to the following functions of the BTRCP: ensure the right to basic needs, specifically, a steady and affordable supply of basic and prime necessities; formulate programs, sound policies and guidelines to create an environment that is favorable to both business and

consumers; and oversee the effective implementation of all trade and industry and other consumer laws.

The Department of Agrarian Reform (DAR) cites Sec. 2, Paragraph 5 of R.A. No. 6657 or the Comprehensive Agrarian Reform Law as a direct response to the State obligations on the right to food. Specifically, it provides that “The State x x x shall provide support to agriculture through appropriate technology and research and adequate financial, production, marketing and other support services.” Further, it mentions Paragraph 9 of the same section, which states that “The State shall protect the rights of subsistence fishermen, especially of local communities, to the preferential use of communal marine and fishing resources, both inland and offshore. It shall provide support to such fishermen through appropriate technology and research, adequate financial, production and marketing assistance and other services.”

There are two staff bureaus at the DAR that deliver on the State obligations on the right to food. One is the Bureau of Land Acquisition and Distribution, which ensures security of tenure to farmers through land acquisition and distribution and leasehold system. The other is the Bureau of Agrarian Reform Beneficiaries Development, which is responsible for the development of viable agrarian communities in the countryside conducive to greater productivity and higher farm income. The National Commission on the Indigenous People is an attached agency, which is responsible for protecting the rights of the indigenous peoples in the indigenous cultural communities by ensuring their economic, social and cultural well being.

The Department of Agriculture (DA) has several operating units that respond to the State obligation to respect, to protect and to fulfill the right to food. Some of them are responsible for more than one obligation as in the case of the Fertilizer and Pesticide Authority which responds to protect and fulfill; and the National Food Authority and the National Agricultural and Fishery Council which both respond to all the three obligations: respect, protect and fulfill.

One of the mandates of the Fertilizer and Pesticide Authority is to assure the agriculture sector of adequate supplies of fertilizer and pesticide at reasonable prices, rationalize the manufacture and marketing of fertilizer, protect the public from the risks inherent in the use of pesticides, and educate the agriculture sector in the use of these inputs. Along this line it has formulated the following programs: quality and safety management program; accreditation and licensing handlers; and registration of fertilizer and pesticide products.

The National Food Authority classifies itself under the obligations to respect and protect on account of its Rice Distribution Program and under the obligation to fulfill-facilitate and fulfill-provide as it ensures food security in times and places of natural or man-made calamity/emergency. It basically responds to the core contents of the right to food

including dietary needs as it is one of the agencies tasked to implement RA 8976, which provides for the iron fortification of rice to address the micronutrient malnutrition in the country.

The National Agricultural and Fishery Council's responsibility on the fulfillment of the right to food are embodied in the following mandates: act as advisory body to the DA and ensure the success of its activities, and to initiate the development of local agricultural and fishery councils and sectoral committees; and to assist the DA in the monitoring and coordination of the agriculture and fishery modernization process and to serve as the consultative and integrative structure for inter-agency and inter-sectoral collaboration in agriculture and fishery modernization.

The National Economic Development Administration (NEDA) as the country's premier social and economic development planning and policy coordinating body identifies itself along the obligation to respect and views its role in terms of policy/plan formulation, program/project evaluation and sectoral/ program/project monitoring and evaluation. In particular, it notes its lead role in the formulation of the Medium-Term Philippine Development Plan, which spells out priority policies and strategies and the Medium-Term Public Investment Program, which contains priority programs, activities and projects including those related to health and nutrition, trade and industry, agriculture and infrastructure. It also provides technical support and assistance in the formulation of sectoral plans such as the Accelerated Hunger Mitigation Plan and Medium-Term Philippine Plan of Action for Nutrition. It is likewise responsible for the preparation of socio-economic reports which contain the assessment of the attainment of the plan targets particularly along nutrition, food availability and accessibility; and evaluation and monitoring of investment programs/projects that may have impact on the food supply and distribution system. Further, it advocates for the integration of food and nutrition in the development agenda toward the achievement of the Millennium Development Goals on poverty and hunger.

The Islamic Da'wah of the Philippines, Inc., "a non-governmental organization that extends voluntary services to the Filipino people, especially to Muslim communities" has the following functions: conduct seminars, orient manufacturers on halal food and issue halal certifications to qualified products and manufacturers. (G.R. No. 153888, July 9, 2003).

2. Content Analysis of the Right Food Indicators' Mapping

As evidenced by the results of consultations and dialogues, existing performance indicators were analyzed and corresponding accountabilities of these government agencies were matched against the normative content with identification of the applicable human rights performance indicators at various levels: outcome, output, activity and input levels. The results reveal that while accountabilities were established corresponding to each performance indicators, the indicators have not been developed to

incorporate the human rights normative content that was applicable to each indicator. The indicators still represent purely development indicators that require more enhancement and improvement using the normative content on the Right to Food.

a) Adequacy

As defined under Article 11 of the ICESCR, adequacy includes whether particular foods or diets that are accessible can be considered the most appropriate. As interpreted under the pilot study, the following performance indicators and accountable agencies are as follows:

Performance Indicators	Type of Indicator	Responsible Agencies
Per capita food supply per year, per day	Outcome	DA-BAS, DOST, NEDA
Production data for selected commodities by major food groups	Outcome	DA-BAS

It is also considered by the Committee on ICESCR that the core content of the right to adequate food implies the availability of food in quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances and acceptable within a given culture.

- a.1 "Adequacy" is to a large extent determined by prevailing social, economic, cultural, climatic, ecologically and other conditions

Performance Indicators	Type of Indicator	Responsible
Domestic utilization of food by major group (food basket)	Outcome	DA-BAS, DOST

- a.2 Dietary needs implies that the diet as a whole contains a mix of nutrients for physical and mental growth, development and maintenance and physical activity that is in compliance with human physiological needs at all stages throughout the life cycle and according to gender and occupation.

Performance Indicators	Type of Indicator	Responsible
Percentage of individuals practicing healthy diet (low salt, low fat, low sugar, high fiber)	Outcome	DA-NNC, DOST, DOH
Percentage of individuals eating junk food	Outcome	DA-NNC, DOH, DTI, Private sector

Percentage of individuals eating in fast foods	Outcome	DA-NNC, DOH, DTI, Private sector
Percentage of individuals eating green, leafy and yellow vegetable and fruits	Outcome	DA-NNC
Percentage of individuals consuming food rich in protein, Vit. B, iron, iodine	Outcome	DA-NNC, DOH

b. Sustainability

Notion of sustainability is intrinsically linked to the notion of adequate food or food security implying food being accessible for both present and future generation.

Performance Indicators	Type of Indicator	Responsible
Inventory and Status of existing coastal and marine ecosystem	Activity	DA-BFAR, DENR

- b.1 Sustainability Security - implies the absence of vulnerability from hunger, i.e. low risk of falling victim to hunger through changes in personal or external circumstances.

Performance Indicators	Type of Indicator	Responsible
Extent of coverage protection of coastal and marine ecosystem (Outcome level)	Outcome	DA-BFAR, DENR, LGUs
Percentile decrease in the case of illegal fishing methods like muro-ami, cyanide fishing, use of fine mesh nets, poaching, commercial fishing in municipal waters (Output Level)	Output	DA-BFAR, LGUs
Percentile decrease in the use of chemical inputs in agriculture (Output level)	Output	DA-FPA
Percentile decrease in soil degradation caused by soil erosion (Output level)	Output	DA-BSWM, DENR
Percentile decrease in the production and productivity of marine (mangroves, coral reefs) and freshwater resources (swamplands, rivers, lakes) [Outcome Level]	Outcome	DA-BFAR-DENR

C. Availability

This refers to either the possibility of feeding oneself directly from productive land or other natural resources or to the existence of a well functioning distribution.

Performance Indicators	Type of Indicator	Responsible
Volume of rice, corn grain & sugar distributed for food security and price stabilization	Input	DA-NFA
Daily per capita food supply	Input	DA-NFA
Initiatives undertaken and resources allocated to promote technology development and transfers for improved production (Activity/Input level)	Activity/Input	DA, DOST
Post harvest & market related infrastructure constructed/facilitated	Input	DA, DTI
Value of gross investments in agriculture (Input Level)	Input	DA, DTI
Value of gross investments in agriculture (Outcome level)	Input	DA, DTI
Percentile sufficiency in selected commodities (Outcome level)	Outcome	DA
Percentile increase in the volume of production of selected commodities (Outcome level)	Outcome	DA
Percentile increase in yield per hectare (Outcome Level)	Outcome	

d. Accessibility

Encompasses both economic and physical accessibility

Performance Indicators	Type of Indicator	Responsible
No. of trainings on plant propagation conducted	Activity	DA-BPI

d.1 Economic accessibility implies that personal or household financial costs associated with the acquisition of food for an adequate diet should be at a level such that the attainment and satisfaction of other basic needs is not compromised or threatened

Performance Indicators	Type of Indicator	Responsible
Percentile increase in	Outcome	NSO

income from agriculture
& related services
Percent of available
income used for food

Outcome

DA-NNC

- d.2 Physical accessibility implies that adequate food must be accessible to everyone, including the vulnerable group individuals, such as infants and young children, elderly people, the physically disabled, the terminally and persons with persistent medical problems, including the mentally ill.

Performance Indicators	Type of Indicator	Responsible
No. of fingerlings distributed/dispersed/ produced	Output	DA-BFAR
No. of broodstock distributed/ produced/ maintained	Output	DA-BFAR
No. of seaweed nurseries established/maintained/ rehabilitated	Output	DA-BFAR
No. of fisheries and livelihood projects established	Output	DA-BFAR

- d.3 Accessibility of food for both present and future generations (security); long-term availability and accessibility of food (sustainability)

Performance Indicators	Type of Indicator	Responsible
Extent of displacement of local producers due to international trade agreements	Outcome	DA, DTI
Local food production vis-à-vis food imports	Output	DA, DTI
Percent of land/number of hectares used for local food production vis-à-vis land used for cash crops or high-value crops	Output	DA, DLR
Measures taken for watershed management, control of deforestation, and	Output	DA-BSWM, DENR, NWRB

Performance Indicators	Type of Indicator	Responsible
enhancement of national forest cover		
Women farmers' ownership/access to land (land titles)	Output	DA, NCRFW
No. of post-harvest & market related infrastructure/facilities established/constructed/maintained	Output	DA

e. Safety

Free from adverse substances set requirements for food safety and for a range of protective measures by both public and private mean to prevent contamination of food stuffs through adulteration and/or bad environmental hygiene or inappropriate handling at different stages throughout the food chain; care must also be taken to identify and avoid or destroy naturally occurring toxins.

Performance Indicators	Type of Indicator	Responsible
Food pesticide residue analysis		DA-FPA & BPI
Food products contaminated with veterinary medicine and other chemicals (antibiotic, hormones, etc.)	Output	DA-FPA, BPI, BAI, NMIS
Red tide monitoring		DA-BFAR
Fish health management		DA-BFAR
No. of lakes assessed/monitored		DA-BFAR
No. of communal waters stocked		
No. of regulatory documents issued (certificates, clearances, permits, licenses, etc.) classified by type/nature	Output	DA-FPA, BPI, BFAR, NMIS, BAI, BAFPS

f. Acceptability

Cultural/consumer acceptability need to take into account perceived non nutrient-based values attached to food and food consumption and informed consumer concerns regarding the nature of accessible food supplies

F. HRBA Success Indicators in the Project

This is one project that has demonstrated an “*attempt*” to apply the human rights normative content or standards into the different elements on the Right to Food both at the activity, output and outcome levels. However, much is yet to be desired in terms of the quality of outputs generated from the application of HRBA in terms of the following indicators:

1. On Government accountability based on State Obligations on the Right to Food: Adequacy of the matching of the accountabilities of agencies with the identified Right to Food indicators.
2. On development indicators on the Right to Food: Adequacy of the application of the normative content on the Right to Food both at the output and outcome levels.

G. User Satisfaction on the HRBA

The HRBA was a welcome undertaking for the proponent as it is a part of the mandate of the CHRP to monitor government compliance with human rights obligations. In fact through a resolution issued by the CHRP, HRBA was adopted as the approach in undertaking the work of the organization. With the support of the United Nations Development Program (UNDP) through the Fostering Democratic Governance Portfolio, the approach was made functional through this Right to Food (RTF) Project specifically in the aspect of setting up human rights indicators.

However, just like any pioneering endeavor, sustaining the project is one difficulty. Sustaining the method proved to be a gargantuan task since maintaining regular meetings to assess existing indicators and developing what is called 'human rights indicators' entailed a lot more resources and expertise which the Commission could not readily obtain from the various participating government partners. Hence, the level at which the HRBA was mainstreamed remained at the orientation level. Applying the HRBA at the time and asking government to pursue this on their own was another matter.

HRBA provided method to human rights work. It breaks down the process, provides guidelines or steps and elucidates the how in HR work. Many HR advocates just know how to go about a human rights critique. However, their audience because of the perceptions that the HR critique evokes in non-HR audiences does not understand them. Often enough, the audience comprise of government entities, which view HR with mystique and dismiss knowing human rights as too technical and crafty.

The key tack in ensuring effective application of HRBA by government is to convey the message that HRBA is a perspective not alien to governance but can be regarded as how effective governance can be assessed and measured. On the process of ensuring its adoption, key issuances must be disseminated to government structures such as

administrative and/or executive orders, joint undertakings and the engagement in existing human rights mechanisms such as the treaty reporting process to force the issue that human rights is at the core of public service and its full enjoyment rests on the efficacy of governance.

H. Lessons Learned

The CHRP has the adequate mandate and policy to undertake HRBA. However the project could have been more effective if there was an operational convergence of human rights and development expertise in this project. Setting of indicators is a too technical endeavor that must be undertaken jointly with the NEDA and the NSO.

1. Effectiveness of the Outputs

The project is not complete based on the preliminary outputs. The HRBA methods and tools for mapping obligations and performance indicators did not warrant the application of the normative content of human rights. Although, applying the HRBA was useful in terms of linking and interrelating the mandates and services of the relevant agencies with the whole perspective and demand on the Right to Food. The CHRP should continue the initiative.

The project is short-lived and was not able to follow up on its outputs in terms of being able to influence the standardization of indicators and institutionalization of accountabilities on the Right to Food among government entities. There is a need to revisit and redesign the project to fully maximize the use of the outputs.

The project was managed singly by the CHRP without definite structural arrangement and regular support staff to follow through the project. The project lacked the necessary framework on which to base a better planning of activities towards full completion of the project.

2. HRBA as Applied in the Project

The project is important as far as demonstrating the approach to reviewing development indicators to make it compliant with the human rights indicators prescribed under the normative content of every right. The CHRP may consider undertaking this type of project with both the NEDA and National Statistics Office.

As signatory to the eight (8) core International Human Rights Treaty, where the normative contents of both civil and political rights and economic, social and cultural rights are embodied, the CHRP could advise the NEDA to undertake a research project that will help improve on the current development indicators set for every set of rights.

While the project did not specify its future plan whether it will be pushed through, it would be best to do a more comprehensive framework for the establishment of human

rights indicators that would be mainstreamed into the development indicators of the NEDA. This would pave the way towards the progressive compliance with the State obligations under each Treaty.

Unless the CHRP adopts a more comprehensive research agenda on human rights, a project like this will be in a “vacuum”. May be the CHRP can further explore linking this project with the ongoing thematic planning of the NEDA on the ICESCR.

This is very important to cover all food-related government entities. The direction of this capacity building should be towards a thorough assessment of the mandates and services of all related agencies into a systematic framework that will link their respective roles and functions into a total system for an effective delivery of the Right to Food.

The attempt to review the mandates of the various related agencies on the standards on the Right to Food could be properly documented for replication in other areas of rights. Likewise, the existing technical and resource capacities of government agencies could be assessed vis-à-vis the demands of human rights norms and standards set out under the Treaties.

This is one case wherein not all the core elements of HRBA worked despite the adequacy of the process and the tools used. The intervention of the CHRP as HRBA agent was very much wanting since human rights standards were not effectively mainstreamed into the indicators setting of the participating agencies.

CHAPTER 6

CASE 4 - IMPLEMENTING E.O. 366: A PRACTICAL GUIDE FOR MANAGING THE CHANGE PROCESSES OF THE RATIONALIZATION PROGRAM

This chapter dealt with the challenge of applying HRBA into the change management process of the government under its Rationalization Program. The approach made was to engage focal persons from both the DBM and the DAP, who have background orientation and training on human rights and HRBA. Thus, using the single case design, the project reveals its unique practice of HRBA.

A. Overview of the Project Case

The development of the Guidebook entitled ‘Implementing E.O. 366: A practical Guide for managing the Change Processes of the Rationalization Program is a joint undertaking of the Department and Budget management (DBM and the Civil Service Commission (CSC). It was conceived to provide a theoretical and practical framework for managing change processes of government institutions pursuant to Executive order 366 or the Rationalization program. In effect this is a follow of the plan initiated by the defunct Presidential Committee on Effective Governance (PCEG), which developed an earlier blueprint on how government institutions should undertake their respective rationalization program. It was the Committee that was responsible for a piecemeal review of the structures, mandates and functions of government organizations, which blossomed into a comprehensive and sustainable strategy for a government-wide reengineering program.

This is one initiative under the GOP-UNDP Governance Portfolio in 2006-2007 that was appraised to be human rights and gender compliant in keeping with the Portfolio’s attempt to mainstream the Human Rights-Based Approach (HRBA) in the programs and projects funded by the UNDP. The process adopted in the development of the Guidebook used was empowering for all stakeholders in government who are both the subject and objective of the Guidebook. How this Guidebook evolved into an HRBA case material would be the focus of this case study.

1 Purpose of the Study

This case study on the Guidebook seeks:

- a) To examine both its content and process and explore its added value to the HRBA in crafting a change management framework for government institutions undergoing the Rationalization Program;

- b) To establish the applicable human rights principles and standards applied in the Guidebook and to establish the HRBA success indicators there from; and
- c) To draw basis for establishing the value of human rights principles and standards in governance as exemplified in the Guidebook..

2. Project Design

The project essentially covers the formulation and production of the Guidebook, which is entitled: “Implementing E.O 366: A Practical Guide to Managing the Change processes of the Rationalization Program. The Guidebook was intended to serve as both a framework and a tool to enable the Change Management Team (CMTs) handle effectively the institution-based Rationalization program.

The Guidebook is focused on ‘hows’ of the processes of change. The contents of the Guidebook provide checklists, templates, mechanisms and guide questions based on change management strategies. Certain principles and standards were taken into consideration to ensure human rights and gender mainstreaming in the project. These are: to check if actions of a CMT recognize, respect and protect the rights of employees, especially the vulnerable groups or those who are performing functions that would be found duplicating, overlapping and redundant; and to promote and ensure participation, transparency, accountability, equity and non-discrimination in terms of gender and culture.

3. Summary of Project Gains

The application of HRBA in the project is very simple. The focal persons who had background on the approach deliberately apply relevant human rights principles and standards in the Guidebook. Thereafter, DBM requested the UNDP –HRBA Consultant to conduct a review of the Guidebook as to its compliance with the HRBA, which the consultant affirmed.

The DBM identified the enhancement of capacities of government Departments/Agencies/GOCCs in effecting a change process at the institution level that allows higher degree of acceptance and lesser degree of resistance.¹³¹ The document, itself, serves as the living testimony of the experiences and challenges encountered by some agencies, which were showcased as examples in the Guidebook. Such documentation of the actual participatory processes undertaken by different agencies in the actual review, planning and decision making involved in the Rationalization Program would enable the use of the Guidebook for effectively and productively with the concrete and practical experiences of some agencies to which other Departments/Agencies/GOCCs could identify, in terms of working out change management processes in their respective situations.

More significantly, the Rationalization Executive Committee (composed of the DBM Secretary and CSC Chairperson) issued a resolution dated June 15, 2006 providing guidelines for use of the CMTs in notifying personnel who will be affected by the rationalization effort.¹³² This issuance was made in response to the common issue raised by the agencies during the FGDs on the process that will be followed in notifying concerned personnel.¹³³

Hence, the overarching gain cited under the project is the capacitating of the officials and members of the CMTs of the different departments/Agencies/GOCCs on human rights and gender equality.

4. Summary of Lessons Learned

Considering the magnitude of the participatory and consultative process employed in the development of the Guidebook, the four months-project duration proved to be insufficient. Thus, in pursuing similar efforts in the future, it is important there is adequate time within which to maximize the involvement of concerned key stakeholders in the project implementation. In addition, a pilot training for the users of the Guidebook should have been integrated into the project design for two purposes: to validate the Guidebook; and to organize a network of change management practitioners in government into a best practice exchange network.

B. Overview of the Project Proponent

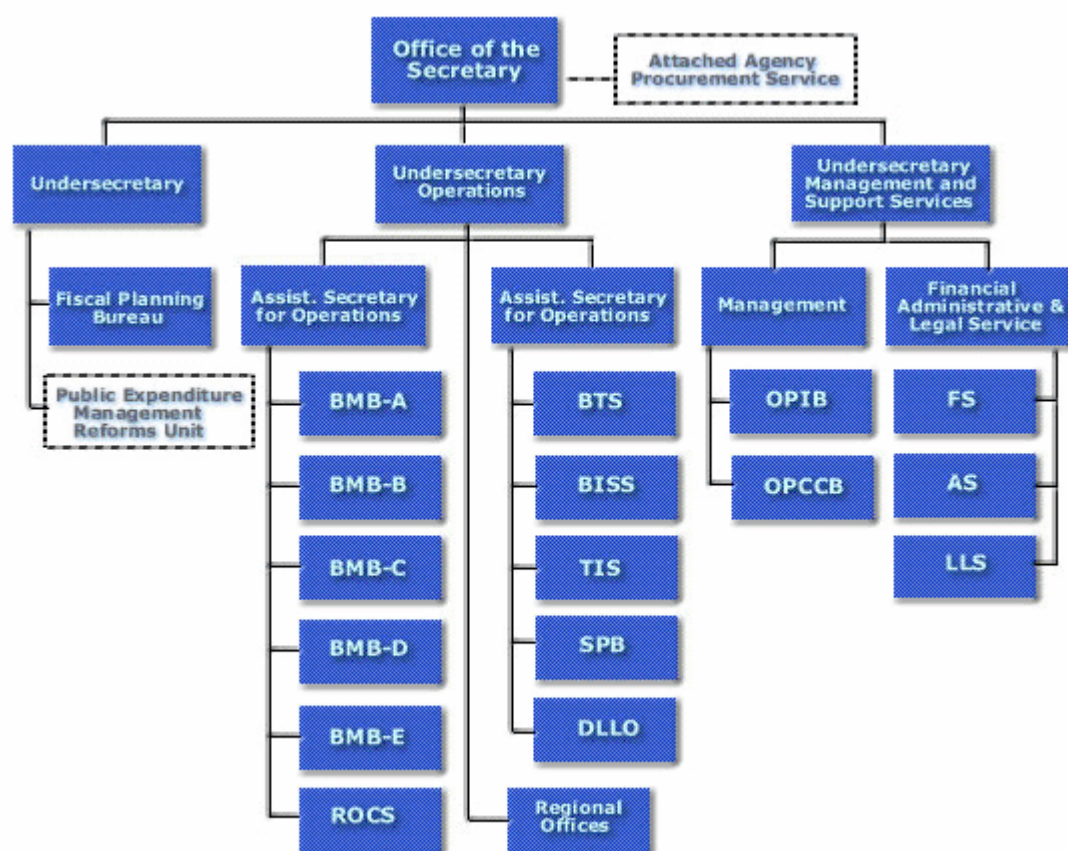
1. Mission and key functions/services

The core business and services of the DBM are defined and operationalized through its Major Final Outputs (MFOs) These MFOs flow logically from the three strategic objectives of Fiscal Sustainability, Effective Resource Allocation, and Efficient Government Operation.

These MFOs are (a) Budget Policy Services, (b) Budget Release Services, (c) Agency Budget and Management Services, and (d) Performance Monitoring and Evaluation Services. These four (4) MFOs are the logical starting point for setting operational objectives, defining concrete indicators of performance, and formulating strategic courses of action to achieve the objectives.

These MFOs are managed through the department organizational structure as shown below:

FIGURE 6 - ORGANIZATIONAL STRUCTURE OF THE DEPARTMENT OF BUDGET AND MANAGEMENT



The Bureau that was in charge of the project is the Organization and productivity Improvement Bureau (OPIB). The bureau has the following functions: conducts continuing studies on the entire government bureaucracy for purposes of instituting long-term reforms/ innovations to achieve efficiency and effectiveness in governance; conducts continuing studies on the over-all development and installation of improved techniques and procedures on public expenditure management; undertakes researches and studies on government-wide organizational structuring, work simplification, cost reduction and other productivity-related activities; develops agency performance measurement framework and guidelines for determining and assessing agency performance and for planning the required level and composition of agency resources; and provides secretariat services to the Cabinet Cluster "F"

The OPIB has effectively implemented the project and has institutionalized the use of the Guidebook. No less than the top two officials of the DBM and CSC have institutionalized the use of the Guidebook. The document carries their leadership and support to the use of the principles, approaches and tools provided. While the tools may not be explicitly rights-based, the principles and approach prescribed in the use of the tools were strongly founded on the two elements of the HRBA, namely, human rights

principles and normative standards as described in the content case analysis of the Guidebook.

The institutionalization of the Guidebook is reflected in the institutional messages of both the DBM and the Civil Service Commission (CSC), as follows:

- a) The DBM Secretary's message in the Guidebook reflects institutional advocacy as herein cited:

This guidebook provides the heads of agencies and the Change Management Teams with approaches, practical tools, and techniques to aid them in making a successful change journey, from initiating and planning the rationalization effort to implementing it in their respective agencies. In coming out with this manual, we recognize that the heart of change lies with the people in the organization. A good part of managing the change process therefore deals with the concerns of agency personnel: those who have been tasked to manage the change, as well as those who will be affected by the rationalization."

- b) The CSC Chairperson gave a reinforcing advocacy message, which traced process that both the DBM and CSC traversed to institutionalize the Rationalization Program. She emphasized the use of the Guidebook in terms of shepherding and or nurturing the rationalization change process. The CSC Chairperson specifically states that:

"This guidebook provides a theoretical framework for change management as well as insights drawn by the CSC and DBM from shepherding and/or handholding the rationalizing agencies. The experience has been rich and instructive. Indeed, any change in the bureaucracy is a Herculean process. The concerns that were brought to the Change Management Teams, the CSC, and DBM cover a whole range of issues, from organizational to sectoral, to very personal and individual problems that demanded the same amount of attention, time, and energy."

C. Evidenced-Based Application of HRBA in the Project Implementation

In 2005, the CHRP conducted a two-day orientation on HRBA for middle managers of the DBM. When this project was approved by the UNDP, the DBM proponent was again given informal orientation on HRBA. In addition to the HRBA orientation given to project proponent, proposed projects were made to undergo a one-half workshop for human rights mainstreaming prior to the implementation of the project. In the case of this Guidebook, it went through a development process before it was made to undergo review by the human Rights Consultant of the GOP-UNDP Governance Portfolio.

The project was substantially participatory in nature. With the technical assistance of the Development Academy of the Philippines (DAP), two (2) Focus Group Discussions

(FGDs) were conducted in April 2006.¹³⁴ These FGDs provided the CMTs ample opportunities to share their respective experiences, issues and challenges in managing their respective rationalization efforts. The CMTs that attended came from 13 Departments, six (6) agencies and six (6) GOCCs, which were at the time, at various stages of compliance with EO 366. In May 2006, interviews were further conducted involving key informants from at least three (3) agencies, which at the time were already implementing their respective rationalization program.

When the Guidebook was completed, the document underwent two levels of review. The DBM and CSC undertook the first level review. The Human Rights Consultant of the GOP-UNDP Governance Portfolio conducted the second one.

With far-reaching multiplier effect is the Guidebook itself, which, as reviewed by the GOP-UNDP Governance Human Rights Consultant is human rights-based. The review specifically states that:

“The review found the Manual to be rights-based, as evidenced by (a) the explicit use of human rights and gender sensitive language; (b) strong emphasis on human rights principles of participation and inclusiveness, transparency and empowerment; (c) focus on those most affected by the rationalization program; and (d) inclusion of redress mechanisms based on equity, fairness, transparency, accountability and other human rights principles and standards. The review also found that the toolkit accompanying the Manual is not rights-based. The human rights consultant recognizes that this limitation may be due to the dearth of available rights-based tools.”

D. Institutional/Organizational Issues and Constraints

The Guidebook was successfully completed technical assistance of the Development Academy of the Philippines (DAP). It passed through the preliminary review of both the DBM and CSC. The GOP-UNDP Governance Program Management Office (PMO) undertook a secondary level review. Again the project passed specifications of the project as contained in its original Terms of Reference and HRBA mainstreaming considerations. Copies of the Guidebook were distributed to 21 departments, 31 other Executive Offices/Agencies and 62 GOCCs that are covered by the program.

The project was able to engage the participation and involvement of key stakeholders in the development of the Guidebook through the focus group discussions and interviews conducted for the purpose. The key agencies and offices that gave crucial contributions to the project include: Office of the President, Department of Agriculture, Department of Environment and Natural Resources, Department of Health, Department of Foreign Affairs, Department of Labor and Employment, Department of the Interior and Local Government, Department of Public Works and Highways, Department of Trade and Industry, Department of Transportation and Communications, National Economic and Development Authority, Housing and Urban Development Coordinating Council,

Commission on Higher Education, Office of the Press Secretary, Philippine Information Agency, Center for International Trade Expositions and Missions, National Council for the Welfare of Disabled Persons, National Irrigation Administration, National Printing Office, National Statistics Office, Philippine Ports Authority, Sugar Regulatory Administration, Technology and Livelihood Resource Center

The cooperation of the different departments/agencies and GOCCs contributed highly to the success of the Guidebook. There were shortcomings but much of these are purely administrative. Some of which are:¹³⁵

- a) Difficulty in finding a common schedule for selected CMT heads and members of different Departments/Agencies/GOCCs who were supposed to attend the FGDs conducted by the DAP;
- b) Difficulty in getting the available schedules of some interviewees for the key informants' interviews;
- c) Delays in getting the validation of Departments/Agencies/GOCCs concerned on their experiences in plan preparation, which were presented and highlighted in the Guidebook; and
- d) Delays in the completion of the Guidebook by the DAP due to lack of data, especially good practices by Departments/Agencies/GOCCs.

E. Evidenced-Based Application of HRBA in Project Outputs and Outcomes

The project on this Guidebook has, to a large extent, achieved its intended outcomes. As envisioned, the Guidebook served two purposes. It served as a documentation of the experiences of the concerned agencies on rationalization efforts initiated under EO 366 and initial efforts to guide the rationalization initiatives undertaken by the PCEG. As reported under the Outcome Evaluation of the Fostering Democratic Governance Programme (CY 2005-2007) conducted by the UNDP, the project claimed being able to institute the use of the Guidebook by the CMTs of the: different departments/agencies and GOCCs in the implementation of their respective Rationalization plans.

1. Content Analysis of the Guidebook

The result of this review of the Consultant served as take off point for the content analysis of the Guidebook. The evidence of the HRBA elements used in the Guidebook is herein presented by relevant section of the document:

a) On Understanding and Managing Change

The Guidebook made explicit statements that “change management decisions and actions must be anchored on principles that recognize, respect, and protect the rights of persons

in the organization: participation, transparency, accountability, equity, and non-discrimination.”¹³⁶ In here six (6) human rights principles will be made operational in the context of change management.

As evident in this statement, the Guidebook emphasized two levels of state obligations that should be observed in implementing EO 366, those of respect and protect. Although these levels of obligations were not differentiated in the Guidebook, they both referred to the rights of personnel or employees who will be affected by the Rationalization Program. This is very much in keeping with the human rights concept of state obligations as guaranteed under the International Human Rights Treaties. On the level of respect, State should refrain from violating the rights of its citizens, must not destroy people’s livelihood and people’s personal security.¹³⁷ On the other hand, on the level of protect, the State has the obligation to prohibit and prevent human rights violations under the Rationalization Program, which implies that adequate access to legal remedies must be ensured in case of violation by third party.

For purposes under EO 366, participation as used in the Guidebook presupposes that the personnel or employees of agencies must be given opportunity to freely participate, which further implies that they are adequately provided with adequate information on the agencies’ rationalization plans to enable them to make informed and well-thought decisions, and that the voice of organized groups of personnel or employees would be heard.¹³⁸ This is related to the human rights principle of transparency, which under the Rationalization Program, would demand that concerned agencies must prevent secrecy and lack of full disclosure of decisions, policies and rules to build understanding on their rationalization plan, as this would tend to undermine accountability of the CMTs and jeopardizes the exercise of human rights of concerned employees.¹³⁹

b). On Strategies for Managing Change

The Guidebook made mention that it is founded on the basic respect for the individual and his/her right to work, to be provided with complete and accurate information, and to participate in decisions that affect his/her situation. This is indicative of the state obligation not to discriminate the access to public work on the basis of race, color, ethnic origin or gender. Also, under the assessment part of managing change, the Guidebook stressed that key stakeholders may be consulted to provide a clear picture of expectations and current performance requirements of the agency and that it is important that the problems to be resolved by the rationalization are agreed upon within the organization.¹⁴⁰

c) *On Preparing the Rationalization Plan*

The Guidebook prescribed some mitigating measures to cushion the impact of rationalization. While the rationalization plan is being prepared, the Guidebook requires that alternative livelihood and counseling programs are to be made available to personnel who would opt to retire or be separated from government service to include skills training, livelihood training, provision of credit, investment service and job facilitation. For instance, the DBM organized a Skills/Livelihood and Investment Program (SLIP).

The CMT of the Department of labor and Employment (DOLE) and the Department of Science and Technology conducted SLIP road shows to discuss EO 366, payment of financial benefits, skills training, business opportunities and livelihood workshops. The SLIP befits Article 6(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which provides that the State parties recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts and will take appropriate to safeguard this right. In here, the SLIP is in compliance with Article 6(2), which requires State parties to take steps to achieve the full realization of this right through provision of technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental economic and political freedoms to the individual.

d) On Implementing the Rationalization Plan

The Guidebook sets out the appeals mechanism, which in addition to being required under EO 366, is a visible strategy for employees to see the openness of management to questions and discussions. The CMTs for this matter are placed in a unique position of defining the technical content of the rationalization of their respective organizations, at the same time hearing appeals related to its implementation. The Guidebook specifically provides empowering questions to CMTs in the setting up of their respective appeals mechanisms that prescribe as standards the representation of the employees to the committee or sub-committee on appeals, with respect to rank, gender and culture. Article 2 (3) of the ICESCR provides that State parties undertake: (a) to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) to ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State and to develop the possibilities of judicial remedy; and (c) to ensure that the competent authorities shall enforce such remedies when granted.

2. Content Analysis of the Reported Outcomes of the Guidebook

The Guidebook has in effect capacitated the different Departments/Agencies/GOCCs that participated the FGDs. It also expects to sustain the capacity building of these institutions and others as well, through the use of the Guidebook. The principles and approaches prescribed under the Guidebook, which were evaluated to be compliant with fundamental human rights principles and normative standards should guarantee a more enhanced implementation of the government's Rationalization Program.

Since its implementation in 2004, the Rationalization Program has covered 82 entities (19 departments, 27 Other Executive Offices (OEOs), and 36 Government Owned and/or Controlled Corporations) or 76 percent of the bureaucracy's organizations. These various entities have already submitted their Rationalization Plans to the DBM as of December

31, 2007. Of the submitted Plans, 27 have already been approved by the DBM. These Plans come from 2 department-level offices, 4 attached agencies, 14 OEOs, and 7 GOCCs. The RP, so far, has yielded P399 million savings on personal services generated from the abolition of 1,983 positions involved in the rationalization of the 27 government agencies/offices who's Plans have already been approved and implemented. These savings were plowed back to the rationalized departments/agencies to beef up funds for their maintenance and other operating expenses (MOOE) and capital outlay (CO).

Those who were affected by the rationalization program benefited from the various mitigating measures to cushion the impact of rationalization through SLIP that provided alternative opportunities such as:¹⁴¹

- a) Two DOLE-Central Office (CO) employees started subcontracting the production of abaca lamps for export; Another DOLE-CO employee is in the process of putting up a food cart business (i.e., Belgian Waffle); Interest in further skills training to be conducted by the Technical Education and Skills Development Authority was generated for the following: Reflexology – two DOLE-CO employees have already undergone said training Sewing machine operation – conducted in September 2006, Automotive mechanics, Computer graphics.
- b) CSC retirees formed a cooperative that is providing loans for capitalization to current employees. Some retirees have volunteered their services for free in the monitoring and implementation of some programs and projects of the Commission. Some services are also outsourced to them for a fee.
- c) About 50 DOST personnel visited the farms of the DVF Corporation and the Talavera Dairy Cooperative Inc. in Talavera, Nueva Ecija on 28 July 2006. These farms offer investment opportunities to affected personnel who would like to acquire dairy animals for milk production and propagation. A farmer-member of the cooperative will do care and management. The milk will be purchased by DVF Corporation and the revenue will be shared as follows: 20%: cooperative; 40%: farmer; and 20% investor.

F. Evidence-Based HRBA Success Indicators Generated from the Project

The project contributed in terms of demonstrating through its outputs, the following success indicators:

1. On Governance Stakeholders

- a) The degree to which affected agencies were made to participate in the consultation process and decision making during the formulation and design of the Guidebook; and

- b) The recognition and respect given by the DBM to the rights of the affected employees of the different agencies as claimholders of a rights-based change management.
- 2. On the Guidebook's Compliance with applicable Human Rights Principles and standards on the Right to Work:
 - a) The observance of and compliance with State Obligations in managing the implementation of the Reorganization Plan;
 - b) The provision of alternative livelihood scheme and counseling services for affected employees of the government; and
 - c) The provision of effective grievance mechanism and remedies in case of violation of rights in the process of implementing the Reorganization Plan.

G. User Satisfaction on the HRBA

As expressed by the proponent, preparing the Guidebook from the perspective of HRBA was easy. Change management starts with the premise that what is being managed is the human dimension of change—how people respond, adapt to, or adjust to any change that happens in an organization. By this definition, people are already seen as paramount, and all actions, strategies, approaches to ensuring that change is successful, will have to be based on this first premise. Basically, change management and its principles were seen to have HRBA as a foundation. Once these were set, the content of the Guidebook was relatively easy to decide on and develop.

The Guidebook distinguishes between the technical dimension of change, citing that this would be defined by E.O. 366, and the human dimension—the principles, guidelines and approaches that are mentioned in the Guidebook. E.O. 366 is built on the assumption that the bureaucracy is needful of rationalization, having been structured in that manner for so long, taken over by the rapid changes in performance expectations from the people, and with some functions that have become obsolete or greatly in need of improvement. The changes that need to happen in order for these concerns to be addressed are defined well in the process of E.O. 366. These are referred to as the technical dimension of the change. A closer examination of the E.O. will show that change management principles have also been applied; these principles are more explicitly stated in the Guidebook, though.

The guidebook is very sensitive to human rights. Statements like ‘an incumbent in a position that is affected by rationalization has options: to stay in his/her position, transfer to or apply for another position within the same Department or another Department, or retire/resign with an incentive’ already affirms the rights of the individual. These are: one’s vested right in his/her position; the right to information (options, positions that are open within or outside the Department); the right to participate in discussions concerning his/her position/office; and, ultimately, the right to decide for himself/herself. In addition

to these would be the right to a decent livelihood/work (related to vested right to position, provision of options, incentives, and the livelihood program), to be considered, to speak and be listened to (communication, general assemblies, appeals mechanism), among others.

Consistent with what the HRBA espouses, the Guidebook suggests the involvement of people every step of the way: in defining the needed changes (setting up a coalition or change management team that will advocate for the needed changes, change sponsors, change targets, change agents), communicating the change, and addressing resistance, among others. It is the process of introducing the change, pursuing and sustaining it that is the focus of change management. And this happens through people. People skills are essential. The tools mentioned in the Guidebook are those that are useful in managing people and their responses to change.

Applying the Guidebook may be another matter. In an actual rationalization project, one will have to interact with people, and they may give different responses of varying intensities. They would not have the same degree of understanding of the organizational vision, the purposes for rationalization, and how and why they are affected (or not). The Change Management Team or the people responsible for pursuing and promoting the changes would also differ, and they may have their own responses to ambiguities, questions, and resistance. However, the Guidebook, being rights-based, offers a coherent set of steps, approaches, as well as the needed skills. One key step would be the creation of a policy base for the change. Rationalization parameters, guidelines and strategies as applied to a specific organization would be the best starting point and foundation for the changes that will be introduced; these would have to include the human aspect. If the policy is clearly defined and already espouses the principles of change management, then application would be easy. When the process of developing the rationalization plan or of implementation gets confusing or unclear, one can always go back to well-defined policy.

Not much, difficulties were encountered applying the HRBA where the topic was concerned. Writing a guidebook for a diverse audience presented a difficulty, since there is the notion that not everyone in the bureaucracy may take a discussion on human rights well. Care was taken not to explicitly talk about human rights in the material, as it might evoke (before any clear understanding of the content and process of rationalization can be made) reactions and complaints against people losing their jobs. Human rights is always a ticklish issue, and can generate different responses. So what was done in the Guidebook (and in the process of rationalization, as presented in E.O. 366) was to weave into the material steps, activities and strategies that would ensure the rights of incumbents are protected.

As experienced by the DBM, HRBA provided additional focus. Since change management is about the human dimension of change, HRBA was not a stranger to it, but affirmed its principles and approaches. As writer, my eyes were more open to the human rights aspect of every step, strategy, skill, tool that I considered for inclusion in the Guidebook.

The DBM recommended that advocacy must be continued on the use of HRBA. Specifically, the department suggested that program/project strategies should be examined and sees how human rights are addressed there. Human rights may not at all times explicitly written but may suggest implicitly how their promotion, protection and fulfillment are woven into the processes of programs and projects, in their design and actual implementation. In order to do examination of these programs, projects and strategies, existing human rights indicators must be properly disseminated.

H. Lessons Learned on the Application of HRBA

The initial four-month project on the Guidebook was found to be deemed short considering the magnitude of the consultations necessary to ensure the participatory nature of the development of the Guidebook. As earlier noted, the sharing and documentation of the experiences of the Departments/Agencies/GOCCs were not that easy. In its effort to make the Guidebook truly practical, it had to venture into this participatory process of consultation with key stakeholders to ensure ownership of the initiative and warrant support to a principled and standardized change management process for the Rationalization Program.

The practice adopted by the DBM and CSC in the rationalization efforts that were initiated as early as 2005 proved to be effective. They resolved that policies, standards and guidelines should be prepared and disseminated prior to the actual implementation of a similar effort in the future.¹⁴²

Specific to this project on the Guidebook, a complementary lesson is derived. The Guidebook would be useful to CMT heads/members in ensuring the successful and smooth implementation of their respective Rationalization Plan. This lesson is premised on another more important lesson gained under the project that sustainable rationalization efforts in government could only be sustained if both the process and the desired output of rationalization would be achieved. The Guidebook is an assurance for achieving a genuine process that is founded on the HRBA elements such as the human rights principles and normative content.

1. Methods and techniques to prevent or manage problems

In order to manage the extent of consultations necessary for the development of the Guidebook, the project proponent, with the assistance of the DAP took stride in going through the tediousness of holding consultations, diligent gathering of data and information to substantiate the Guidebook, seeking approval for the documentation of experiences of top officials of Departments/Agencies/GOCCs in their rationalization efforts and extended consultations with key informants of agencies in charge of their rationalization efforts.

It could be noted that the intended outcome of the various consultations and researches done for the Guidebook are mainly focused on presenting practical guide to design and implement a Rationalization Plan that is participatory, transparent, accountable that are founded on the basic principle and state obligation to respect for the individual and his/her right to work, which are described in detail in Part IV on the Content Analysis of the Guidebook.¹⁴³

2. Institutional Policy and Support

having undergone HRBA training under the CHRP, the DBM, CSC and DAP applied their stock knowledge in the designing of the Guidebook. They were successful as far as the application of the principles and normative contents of human rights are concerned, but not much in designing the tools. However, it is safe to assume that while the design of the tools is not explicitly rights-based, the use of such tools in the approaches and mechanisms described in the Guidebook are human rights-based.

3. Sustaining the Effectiveness of the Guidebook as a Reform Tool

The Guidebook is a tool to institute sustainable institutional reforms under the Rationalization Program. The idea of having a Pilot Training on the Guidebook is a critical strategy for greater sustainability. The training may be focused on the principles, standards, approaches, mechanisms and tools prescribed in the Guidebook. A reinforcement of HRBA may be integrated into the design of the Pilot Training.

A feedback system for the Guidebook could also be designed for further enrichment of the document. Citation of best practices could be encouraged for integration into the revised edition of the Guidebook.

4. Institutional Strengthening and Capacity Building on HRBA

As described above on how to sustain the use of the Guidebook, a feedback system could be installed. The DBM could devise a tool that would be accomplished by the departments/ agencies/GOCCs to report on the effectiveness of the Guidebook. The effectiveness of the Guidebook should be reported at both output and outcome levels in terms of the concrete changes brought about by the use of the Guidebook as well as, the changes in status and conditions of those affected by the rationalization efforts resulting from the use of the approaches and mechanisms prescribed in the Guidebook.

In addition to the Pilot Training, the organization of the CMTs into a change management network should be strengthened. The DBM and CSC may issue another Joint Circular that would provide for the continuing support system for the CMTs to include continuing training and conduct of periodic exchange forum for experiences, issues and challenges, as well as, best practices.

As mentioned earlier capacities for HRBA and managing change process should be undertaken. Each stage of the Rationalization Program of agencies should be considered as opportunities to widen the opportunities of the different Departments/agencies/GOCCs to build their capacities on human rights especially, the HRBA.

The Guidebook is one good example that both governance and human rights practitioners could replicate. The policy support given to the development of the Guidebook, as well as the leadership extended by both the DBM and CSC for its dissemination and use government-wide, provide certainty for its institutionalization.¹⁴⁴ It is a simple Guidebook but its contents have multiplier effects in reform management under the government's Rationalization Program.

Overall, HRBA mainstreaming could be used a mere framework for the designing of a governance tool like the Change management Guidebook. Although, selective, HRBA was also mainstreamed to a large extent in terms of certain applicable human rights principles and standards in reorganization of the government. No HRBA tool was used except the human rights perspective of the framers of the guidebook.

CHAPTER 7

CASE 5 - MEDIA-COMMUNITY ACTION ON MAINSTREAMING HRBA AT THE LOCAL LEVEL

This chapter tackles a most unique application of HRBA in the practice area of public journalism. In here is revealed the compatibility of human rights aspirations to the mission attached to the work of media people. Like the previous cases presented, this case was also examined using the prescribed case design requiring an unfolding of the HRBA practice, to the content analysis of the project outputs and outcomes and lessons derived there from.

A. Overview of the Project Case

For purposes of this case study, the role of the three governance stakeholders is defined under the perspective of HRBA. The Government Sector is the duty-bearer of human rights obligations to respect, protect and fulfill the economic, social, political and cultural entitlements of the people in the context of the international human rights framework based on the legal obligations of the Philippines as a state party to international human rights treaties. The Private Sector is a non-state actor to the realization of the human rights entitlement of the people under the international human rights framework through the performance of its corporate responsibility made possible through the effective regulation of the Government. The Civil Society comprising of many groups such as the individuals, communities and organized groups such as the religious, media, non-government organizations and people's organizations of vulnerable and disadvantaged sectors of society, performs vigilant roles in promoting good governance, holding government accountable for a more improved services delivery and in actively participating in empowered actions to address specific issues and concerns that affect their level of enjoyment or deprivation of their human rights.

This case demonstrates various civil-society driven initiatives that use Human Rights-Based Approaches in community-based public journalism approach in engaging the media into a unique partnership with local communities in addressing their local issues and problems.

In 2002, the Government of the Philippines and the UNDP established a cooperation programme consisting of four (4) portfolios one of which is the Governance Portfolio. This portfolio is focused on capacity building for good governance. One area of capacity building is the Human Rights-Based Approach to Governance, which is viewed as an enabling approach to poverty reduction in the country. Among other projects approved under the portfolio is a project entitled "Media Community Action on Mainstreaming Human Rights-Based Approaches at the Local level." This is one project introduced by the Center for Community Journalism and Development (CCJD) as one innovative

strategy to engage both the citizens and the media in governance in cooperation with local governments and development agencies.

1. Purpose of the Case Study

This case seeks to achieve the following purposes:

- a) To establish the extent to which the elements of the HRBA have been applied in the project;
- b) To establish the rights-based outputs and outcomes of the project and identify the HRBA success indicators therefrom; and
- c) To draw up lessons on how best the HRBA can contribute to local governance and local development.

2. Project Design

The project seeks to popularize HRBA and localize MDG-responsive governance practices through public journalism approaches that result in published/aired stories and multi-sector dialogues. Through the intervention of CCJD, the project would establish and strengthen media-citizen councils or action boards as local mechanisms for media-citizen dialogues, as well as cascade media reform initiatives to local areas to address both community and media issues.

To realize this, HRBA was mainstreamed into the public journalism process being operationalized by CCJD as follows:

Strategy 1: Community Immersion

Reporters spend time in the community to study its geography, demographics, determine citizen needs, interests, aspirations, and generally to interact with community members as a step towards building trust.

Strategy 2: Community Conversations

Conducted during neighborhood gatherings or meetings, in small parks or plazas, barangay halls, in front of sari-sari stores or *talipapa*, and even in people's living rooms, community conversations allow journalists to probe for insights without becoming intrusive or invasive.

Strategy 3: Focus Group Discussions

A more structured form of eliciting data and information, focus group discussions or FGDs allows for a more targeted discussion of a particular issue or problem with key

community players like leaders of people's organizations, civic groups, barangay officials, youth representatives, small business associations, and the local church or mosque. The journalist must prepare a set of questions beforehand but must also be flexible enough to consider other angles that may develop during the discussion.

Strategy 4: Citizen Polls

Surveys or public opinion polling can cover a large segment of the community or geographic area and allows the news organization to put together, for example, a checklist of citizen concerns and perceived problems that would help it map out the story.

Strategy 5: Community Interaction

Widening the network of sources and partners, listing down other players in the community, establishing contacts with NGOs, people's organizations, community associations and even exploring dialogues with local governments and agencies often result in stories that examine problems and offer solutions. It also opens opportunities for the news organization to play a more catalytic role in the community by providing avenues for dialogue through their news pages or programs.

Strategy 6: Alliances with the Competition

By pooling resources and talent with other media organizations such as TV, radio and print, news outfits can cut down costs while ensuring broader reach and bigger impact when doing public journalism. This eschews the traditional mode of media competition that often verges on the cutthroat especially in broadcast.

3. Summary of Project Gains

The project was able to achieve its expected results both at the output and outcome level. The communities that CCJD served were able to establish networks of civil society organizations to address specific public issues. CCJD was able to institute a system of social and public dialogue that is ably supported by media program for sustained advocacy of the issues. In human rights terms, the CCJD was able to create social interactions in the communities on issues that directly affect the lives of the people and organizations that participated in the dynamics of the project.

4. Summary of Lessons Learned

As could be gleaned from the experiences and gains of the project in selected areas, the power relations between the government and local communities through the shepherding of civil society groups have significantly improved using the framework of human rights obligations on the part of the government and human rights entitlements on the part of the local communities. Guided by this framework that was imbibed through series of

orientation and forum on HRBA, community actions involving different forms of advocacies, dialogues, petitions, public debates, public audit and monitoring and the like, have transformed concerned local governments and agencies to include concerned private sector to be more accountable in responding to the various issues and concerns of the communities. Human rights entitlements proved to be one uncontestable area of consensus among local governance stakeholders. Such relationships among the stakeholders could only be productively and effectively sustained if they continue to be guided by human rights principles and standards to which both the government as the duty-bearer and the local communities as the claimholders are duty-bound to operate. Continuing dialogue is the key to the viability of such relationship that are human rights-bound to respect, protect and fulfill.

B. Overview of the Project proponent

The **Center for Community Journalism and Development (CCJD)** is a non-stock, non-profit facility for journalists who work with communities, citizens, and institutions for social change. Established in July 2001, CCJD was formed by a group of journalists and development workers. The CCJD envisions better communities through better journalism, and to do so, supports, encourages and helps sustain efforts of journalists working with citizens and institutions for the development of an enabling environment that would result to self-determining communities. The Center was formed by a group of journalists and development workers in July 2001 and registered with the Securities and Exchange Commission on October 11, 2001 as a non-stock, non-profit facility for journalists working with communities, citizens, and institutions for social change. For its mission, the CCJD is tasked to support, encourage and help sustain efforts of journalists working with citizens and institutions for the development of an enabling environment that would result to self-determining communities towards attaining its vision of realizing better communities through better journalism.

The CCJD adopted very specific goals for the project. Foremost, the center intended to develop a new journalistic paradigm that would enable citizens and communities shape the news agenda by enhancing the skills of community journalists and raising the professional standards of media, encourage greater citizen participation in governance and civic life through public journalism initiatives and increase popular understanding of peace, development, and social justice and governance issues through better and involved journalism that would contribute to policy reform that would address governance issues through better and involved journalism that would contribute to reform.

C. Evidenced-Based Application of HRBA in the Project Implementation

The project was implemented at the community level. On October 2004, Bandilo ng Palawan (a CCJD partner and a media network) organized such a forum on “*Back to the Basics: The role of Community Media in Palawan in Promoting Better Governance through a Rights-Based Development Agenda*”. Local Government Units of Palawan,

local media and CSOs participated this forum in. The forum focused not only on an orientation on the effective use of Human Rights-Based Approaches but also on how best such approaches can be used to encourage and pressure local officials to adopt such an approach in crafting their political agenda.

Prior to the forum, a research was undertaken on relevant data that would indicate how LGUs would measure up in terms of discharging their sectoral obligations on education, health and food security, using a rights-based framework. Various CSO stakeholders like Bandilo ng Palawan, the Palawan Community Media Council and Palawan NGO Network Inc prioritized these three sectors. Forum participants validated the results of the research and crafted plans on how to monitor Government responses to unmet needs of their constituents using Human Rights-Based Approaches in participatory monitoring techniques and public audits, among others. Specifically, letters were sent to LGU officials to solicit their responses to the issues raised and suggested the possibility of incorporating the *Ulat ng Bayan/Ulat sa Bayan* activity in their report of their first 100 days in October 2004. Bandilo ng Palawan has since started publishing the results of the research on the three priority sectoral obligations on health, education and food security in a series of reports in the public journalism page of its weekly newspaper. Sections of inaugural speeches of LGU elected officials are also being published so that they can be held accountable for the promises they made specifically those pertaining to the priority sectoral obligations on health, education and food security.

After the series of fora with various community organizations and community press, there came about the formation of networks and coalitions who are capacitated on the HRBA. These networks were further taught by CCJD on more effective designing and programming of campaign advocacy and lobbying activities and performance of “watchdog” role in monitoring the performance of duty-bearers, referring to LGUS and development agencies. The media, community and civil society have used such tools in different ways, targeting various issues to produce various outcomes. For instance, while public radio (the Radyo Veritas Legazpi Program or the PBN-DZGB Network in Legazpi City) has been used as an effective communication and advocacy tool in Legazpi, newspapers have proved to be highly effective in undertaking campaign, advocacy and lobbying in the Western Visayas Region or in Palawan Province.

Similar efforts were done in Legazpi City. The PBN-DZGB Network – a radio network in Legazpi City and a CCJD partner - has been used very effectively in enabling the community, CSOs and media to work together in bringing about popular awareness on the economic and environmental rights of community residents. This was demonstrated in a case involving a Taiwanese company that wanted to set up a cement plant in *Barangay* Palong in Legazpi City. Concerned residents joined hands with PBN-DZGB reporters (who not only conducted interviews with the residents but also conducted a survey/poll through public dialogue with the residents and *barangay* officials to determine the implications and ramifications for the setting up of a cement plant in the entire community.

This public dialogue was followed by another community dialogue amongst the community, Concerned CSOs and environmental experts as well as concerned *barangays* and Government officials to tackle the advantages and disadvantages of putting up cement plant in terms of their economic benefits to the community and livelihood of the community residents as opposed to the threat that the cement plant poses to the health issues and concerns of the local populace. In order to protect and defend their rights, locale residents opposed to the plant organized themselves into a group, now known as the “*Alyansa Laban sa Polusdyon at Gutom*” (Alliance Against Pollution and Hunger or ALPOG). Again, this dialogue was aired live on PBN-DZGB. A third forum was organized by the Department of Environment and Natural Resources – Environmental Management Bureau (DENR-EMB) in Legazpi City. In order to address the conflicting interests of the community stakeholders and the Taiwanese investors, a dialogue took place involving the civil society groups, concerned government officials and the Taiwanese investors. PBN-DZGB covered the entire process and enabled the conduct of a forum that facilitated a dialogue among the stakeholders.

The dialogue paved the way for a common agreement to put up a monitoring group that would work with the DENR-EMB that would track agreements between and among the stakeholders, namely: DENR-EMB – to ensure that the company complies with the requirements set forth in the Environment Compliance Certificate issued to the Taiwanese investors; Community – was assured of the economic benefits of the cement plant in terms of employment and cheap supply of cement and protection from health hazards arising from the cement plant; and CSOs to remain vigilant in performing the watchdog role in the community, duty-bearers (DENR-EMB and LGU) and non-state actor (Taiwanese investor).

Thus through the help again of the PBN-DZGB, continuous dialogue was instituted through the airtime that was devoted by the station to community discussions on the issue as monitored by ALPOG and other concerned citizens. Despite prior agreement, the company operations did not meet environmental standards (residents also started complaining of increasing respiratory problems). Residents thus started communicating these grievances to the local officials through the radio station as they stated that they were assured of faster official action through this channel. A PBN-DZGB staff then refers these cases to the Department of Health and the Provincial Health Office.

CCJD and its partners have recognized the value-added of tapping into relevant Governmental agencies to produce viable and sustainable outcomes. Under this project, CCJD has built alliances with the CHR – the only constitutionally mandated human rights focused Government agency in the country. Whether it be activities that entail training of CCJD and its partners by CHR on Human Rights-Based Approaches or by inviting CHR officials to be a part of meetings, dialogues, debates and discussions on issues at the local level that affect the lives of citizens, CCJD has tapped into CHR and built up a partnership with the Commission that will ensure that the gains made through the project will be sustainable and viable.

As has been elaborated throughout this paper, duty-bearers - notably the CHR - have been very actively involved in collaborating with the claimholders (CCJD and its partners) in addressing demands made and in training the claim-holders on how to operationalize Human Rights-Based Approaches at the local levels. Such an approach has also been very effective in building capacities and developing collaborative relationships with the claim-holders to achieve rights-based outcomes. Developing such collaborative relationship has further helped CHR to work with CCJD and its partners to address demands on claims made in an atmosphere of mutual trust and cooperation. For instance, as co-chair of the Regional Sub-Committee for the Welfare of Children, the CHR Regional Office pushed for the enactment of rights-based local codes for children in all cities and provinces of the Western Visayas Region. In another instance, at the conclusion of the UNDP Philippines-supported forum on training on Human Rights-Based Approaches in Iloilo City, covenants were signed between media and multi-sectoral groups (including LGU officials from Albay and Iloilo Provinces) to undertake activities to promote the use of Human Rights-Based Approaches (like soliciting people's participation) while undertaking developmental activities. Along with CHR, another Government agency - the IPC - has been active in working with CCJD in addressing demands, especially as they pertain to working with IPs in addressing their claims in relation to their right to their ancestral domains.

Monitoring by CCJD and its partners on the use of the rights-based strategies are undertaken in a variety of ways. The media, through the use of public journalism techniques, have been quite effective as a monitoring tool. Through such coverage and broadcasts, not only are the communities kept abreast of whether the duty-bearers are discharging their obligations, but via enabling participatory dialogues and debates (which are duly covered by the media), due emphasis is placed on enlisting duty-bearers' accountability and transparency. One of the most effective ways of undertaking monitoring that has been used by CCJD and its media partners is via the practice of partnering with civil society led "watchdog" groups - such "watchdog groups" perform ongoing monitoring and public audits on public works/projects that are being undertaken by both the public sector and the private sector to ensure that the works/projects are undertaken in a transparent and accountable manner and that these undertakings are not detrimental to citizens' interests in any way. Such monitoring and audit activities forged through media-civil society partnerships have proved highly successful in ensuring ongoing accountability and transparency. E-groups have been set up by CCJD to enable its partners to dialogue on issues of concern. These groups have been tapped to build strategic networks and coalitions on issues of concern - networks and coalition members regularly interact and use the e-groups to highlight issues. The use of the Internet has proved highly effective in exchanging views and news; soliciting ideas; keeping network members abreast on activities undertaken and monitoring progress achieved and hurdles encountered in the process. Monitoring is also done via field visits, undertaken by the media partners in collaboration with the local partners (the CSOs and the communities). Though a traditional form of monitoring, these visits are very helpful in the partners getting an "on the ground" view of whether the activities undertaken have produced

desired outcomes. Finally, CCJD brings its media partners together twice a year; these bi-yearly forums - primarily held to dialogue on issues of concern and to exchange ideas and keep each other abreast of developments in their respective constituencies - also act as a platform for CCJD and its partners to undertake macro-level monitoring and evaluations of their programs.

Through out this project, the CCJD has been citing the contribution of the CHRP in operationalizing the HRBA through its partnership with the Center not only in the conduct of HRBA trainings, forums and community dialogues involving different local stakeholders. In order to sustain the gains of HRBA in selected project areas, the concerned Regional Offices of the CHRP should properly document the HRBA process and tools that were employed to include the outputs and outcomes realized from the project focusing on the content and quality of the outputs and outcomes from a human rights perspective.

Also, taking off from these joint experiences of the CCJD and CHRP, the latter should initiate proper documentation of the project gains that should be inputted into sound policy guidelines or simple guides for a civil-society-driven application of Human Rights-Based Approaches at the ground level from capacity-building interventions to actual application of the approaches.

D. Institutional/Organizational Issues and Constraints in applying HRBA

The lack of information materials on HRBA posed some constraints in the application of the approach. Knowledge on HRBA depends largely on discussions leaving the people without information materials to refer to. Given this constraints, CCJD pursued the project with the advisory help of the CHRP every step of the way. CCJD saw the problem affecting the limited outreach of the project as the project had limited staff and volunteers that are trained on HRBA.

E. Evidenced-Based Application of HRBA in Project Outputs and Outcomes

In recent years, the Center for Community Journalism and Development (CCJD) has been developing and promoting journalistic approaches on how citizens and the media can begin to invigorate public life through engagement by situating journalists as community stakeholders and catalysts rather than as mere observers and reporters of unfolding events. The project added a new dimension into the processes of public journalism, which is the Human Rights-Based Approach.

Under the project, the public journalism process of media and citizen engagement is enriched through a more comprehensive and operational understanding and application of human rights, its concepts, principles, standards and practices that are weaved into the arena of multi-sector action. This project provides the use of human rights perspective into the public journalism approaches and strategies that would better equip communities

to identify and solve local problems, to increase participation in public life and in governance.

“Public journalism is a philosophy, a framework that encourages and provides a forum for public debate over issues that are most important to citizens and how they can address these. It also requires that when these public debates do occur, all voices of the community be heard. It likewise requires journalists to focus not only on what’s wrong but also on what’s working, not only on problems but also on stories of success and hope.”

Following the conduct of HRBA training and development of rights-based strategies into the public journalism standard operating approach, the project has realized outputs and far-reaching outcomes and impact especially with reference to the respect, protection, promotion and fulfillment of the rights of the locale populace. This was made possible through the engagement of communities, civil society groups and media groups into effective and productive partnerships as illustrated in many areas covered by the CCJD under the project.

1. Content Analysis of the Project Outputs

Rights-based Community Immersion. For instance, members of the Forum of Reporters for Equality and Empowerment (FREE) stayed with a local community in Maguindanao Province for a week to more clearly understand the community’s perception of the ongoing peace efforts at the height of fighting between the Government soldiers and the Moro Islamic Liberation Front in 2000. As a result, a series of stories on citizens’ voices about their perception on the peace process and the rights of the locale populace were weaved into the work of the media.

Rights-based Community Conversations. In Kidapawan City, North Cotabato, radio reporters started engaging local citizens in conversations on issues that they really care about and began developing a daily program called *Pulso Ng Bayan* (Pulse of the Town) based on these insights.

Rights-based Focus Group discussions. The Visayas Examiner (TVE) in Iloilo City used FGDs to a large extent developed stories that eventually led to advocacy and campaigning on targeted issues, which helped bring about realization of rights of disadvantaged groups in the City.

Rights-based Citizen’s Polling. The PBN Broadcasting Network in Bicol Province – polled citizens in one *barangay* that expressed concerns about a cement plant, which was to be set up in that area. Such polls led to a series of discussions that ultimately led to the citizens (in participation with the local Government officials) coming up with agreements and guidelines under which the plant could operate in that municipality, to include the

formation of a monitoring group that was tasked to track compliance of the cement plant to the agreements and guidelines.

Rights-based Community Interaction. Through community interaction, the Bandilo ng Palawan gradually raised popular awareness in the communities and likewise, encouraged different stakeholders to discuss the creation of the Palawan Heritage Center that is now continuously guarding and arresting the slow deterioration and loss of environmental artifacts.

Rights-based Alliance Building in competitive environment. Four radio stations in Kalibo, Aklan Province, worked together to undertake a simultaneous broadcast on a program that tackles children's rights issues. The program was soon able to attract listeners to participate and report cases of child abuse – an issue that was hitherto a taboo topic in this town.

2. Content Analysis of Project Outcomes

This section however discusses in detail the very visible outcome of the project from one region -- the Western Visayas Region in southern Philippines – where CCJD has worked in partnership with TVE, its local media partner. The partnership yielded to verifiable outcomes relative to the realization of various rights by the disadvantaged groups in the community.

TVE is a community newspaper established in 1999 by journalists in Iloilo City in Iloilo Province, Western Visayas Region. The newspaper started working through public journalism techniques in 2001 for covering issues of concern to the citizens. Activities ranged from holding community meetings, helping other media groups organize, to the printing of a public journalism page entitled “Examined”. TVE's public journalism initiatives complemented by a training on Human Rights-Based Approach have resulted in greater public impact of the news covered, development of a more critical and concerned core of readers and enhanced skills of journalists to cover news and the building of partnerships with other CSOs and the communities at large.

Specifically, such partnerships have employed almost similar HRBA strategies as mentioned in different regions and areas covered by the CCJD under this project that led to producing outcomes as follows:

Alliance in the fight against the setting up of a hospital incinerator. In 2001, following complaints by local residents in Iloilo City about noxious fumes coming into their homes from a nearby hospital incinerator, TVE came up with a series of reports on this issue focusing on the right to health of the locality. The TVE staff forged alliances with Greenpeace Philippines to spread awareness about the related health hazards at a TVE-organized forum in Iloilo City. Attended by multi-stakeholders including Government and hospital officials, community members, health workers, priests, journalists and NGO groups, the forum was successful in helping make the participants not only understand the environmental hazards posed by the incinerator but also in organizing them around

this issue. Furthermore, various other groups like the Physician's Association, the representatives of the Catholic Church and professional organizations like the Iloilo Chamber of Commerce and the Iloilo Medical Society picked up the issue and launched an information drive on solid waste management. Concerted advocacy and lobbying efforts by forging alliances of these various stakeholders (including the Iloilo CODE NGO – a coalition of around 50 NGOs in the city), coupled with reporting on the issue and related events by TVE, finally resulted in the hospital incinerator shutting down. Although there has been efforts to re-operate it, intense lobbying efforts and the dangers of pressures of adverse publicity that would occur as a result of the campaigns that the citizens are ready to again undertake have resulted in the incinerator remaining closed till date.

Campaigning against the coal-fired plant in Barangay San Salvador. A Korean Electric Power Plant had plans to set up a 100-megawatt plant in *Barangay San Salvador*, a coastal town north of Iloilo City. Citizens' groups joined hands to protest against this plant since the continuous burning of coal particles emit harmful toxic chemicals that can seep into the ground water and contaminate drinking water. Pregnant women and infants are often the most vulnerable. Doctors have also thus joined in the fray because of the perceived serious health effects on the residents in the area. TVE covered the issue as a long-running series that allowed citizens' voices to be heard, especially in relation to their stand on the proposal. Readers were provided citizens' guides that showed schedules and venues of public forums, and how they can actively participate in the debate. Such media-community engagement - that drew in the readers with the liberal use of statistics, graphs and maps as well as reader suggestions, citizens' guides and explanatory sidebars - has led to sustained awareness and campaigning on the issue that put pressure on the local officials and the Plant and finally led to the *Barangay* head sponsoring a resolution, calling for the scrapping of the project.

Signing of covenants on good governance. During the training forum on Human Rights-Based Approaches held in Iloilo City in August 2004, covenants were signed between concerned civil society stakeholders, the media (including TVE) and LGU officials (six LGU officials from Puerto Princesa; ten LGU officials from Iloilo Province; and, six LGU officials from Albay). By signing these covenants on good governance, the officials reiterated their commitments to undertake activities at the local level that would ensure that Human Rights-Based Approaches are incorporated while undertaking developmental planning and programming (for instance, participatory budgeting, election monitoring, and so on). LGU officials can be further held accountable for not meeting obligations under such commitments and they agreed to withstand monitoring and scrutiny on these commitments by the concerned civil society stakeholders.

Assertion of Right to Good Governance through Public Audit. Citizens' have started monitoring activities after getting organized via efforts of local CSOs and media groups, primarily led by members of Iloilo CODE NGO – all local TVE/CCJD partners. Batad town in Iloilo Province was the first area where a public audit, called "*Pamangkot Sang Banwa*", was piloted. The success of bringing LGU officials face-to-face with citizens to ensure accountable governance led to its replication elsewhere. The mountain town of

Bingawan in Iloilo Province has actually passed a resolution mandating that such public hearings be institutionalized; thus, such a hearing is held every second Monday of February and July each year. In the hearing held on 4th February 2005, there was a dialogue on transparency between the local community and elected LGU officials in which the local Mayor also attended. 50 community members demanded responses from the officials on commitments made (like budget for repair of school buildings and damaged street lights, conversion of farm roads to market roads, honorarium of day-care workers and so on).

This particular “*Pamangkot Sang Banwa*” was an offshoot of the voters’ education drive conducted in the town during the May 2004 elections. NGOs sponsoring it took down the promises of the officials who signed a covenant agreeing to join the hearing once they are elected to office. During the “*Pamangkot Sang Banwa*”, the promises of the elected officials were listed down and their attendances to the regular legislative sessions were posted as well as their performances in passing and sponsoring ordinances.

Even the LGU officials felt that an initiative of this kind is imperative in making governance transparent in Bingawan. TVE actively covered the news leading up to this “*Pamangkot Sang Banwa*”, published views of the citizens relating to the performances of the LGU officials, attended the hearing and subsequently gave it front-page coverage following the hearing. Currently, TVE is collaborating with Iloilo CODE NGO to help popularize such audits through publications and media releases. Such collaborations have proved central in promoting participatory, transparent and accountable governance at the local levels in quite a few provinces in the Western Visayas Region.

Enabling indigenous peoples to advocate claims for their rights to ancestral domain. TVE worked in collaboration with local CSO groups (in the form of undertaking fact-finding missions; holding FGDs; publicizing the findings of such missions and FGDs in the media; and, making the general public aware of the plight of IPs) in the provinces of Tapaz, Capiz and Garangan in Iloilo. In these provinces, communities that consider themselves indigenous have started organizing themselves with support from the local CSOs against the construction of dam that is being planned by Aegis France, a multinational corporation. The dam, if constructed, will displace these people from their lands because the areas upriver would then be used as watershed areas. Thus, none of these communities signed the affidavit that would actually give them land in other areas if they move away from the land that they are currently occupying. The collaborations and advocacy has gained further momentum due to the involvement of the IPC that has started working with these groups to address their claims, including listening to their demands at the mining operations would threaten their right to their ancestral domains.

F. HRBA Success Indicators Applied in the Project

The success of HRBA in this project is demonstrated through the following number of indicators generated through the project:

1. The degree to which human entitlements are applied into the empowerment of community groups; and
2. The extent to which duties and responsibilities of both duty-bearers and claimholders were demonstrated in different forms of agreements and reconciliations are achieved between the government actors and community actors in responding to economic, social and political problems using human rights perspectives and standards

G. User Satisfaction on the HRBA

Hereunder is a summary of the assessment given on the use of the HRBA in the project, which was based on the results of the *User Satisfaction Rating Questionnaire*, accomplished by the participants of the projects selected by the project proponent:

The proponent of the project was in agreement that HRBA shaped the content and the activities of public journalism implemented in the community press. It was easily used in planning for stories and special reports and interventions like community meetings, polls and focus group discussion that are part of public journalism initiatives.

The proponent expressed that the most predominant difficulty lies in the awareness of rights, in terms of claiming them at first instance, is generally low among media practitioners and the media audience. Therefore, there is a need for those in the know to consciously make it understandable and explicitly state that in their stories and community activities.

The project proponent was also in agreement that HRBA is a tool that helped make the editorial output comprehensive and relevant because it looks at sectors and identify their general and specific needs and rights. It can also be applied to any coverage – disaster, election, environment, children and women’s stories.

Likewise, they noted the significance of encouraging its use among media practitioners; show examples of excellent stories, media projects; recognize journalists who use the approach; provide support/grants to those who will write special reports and community projects.

H. Lessons Learned from HRBA Practice

The foremost challenge in operationalizing the Human Rights-Based Approach is breaking this culture of silence in local communities was the greatest difficulty faced by the Center before it was able to organize and mobilize the communities and civil society groups to solve and address their day-to-day issues and concerns that affect the assertion and exercise of their human rights.

1. Breaking the Culture of Silence in Local Communities

This challenge was insurmountable especially in some of the remote and inaccessible project areas, which are inhabited by indigenous peoples (IPs). It was very difficult winning the confidence of these IPs and empowering them to break the “culture of silence”. These IPs found it strange to challenge the status quo on certain issues that affect their individual and community life. They belong to communities, which are often cut off from mainstream civilizations. Also, they are illiterate; and, have no knowledge of Government policies and programmes that directly influence their lives. Therefore, working with people of such economic and social background inevitably poses great hindrances to empowering them to voice their sentiments and clamors and claim the rights that are due them.

Following from the above, the practice and use of HRBA were a bit confrontational in nature especially in the use of progressive strategies that tend to dig out the root of economic and social issues that directly relate to the deprivation of specific human rights of local communities and disadvantaged groups. As may be gleaned from the rights-based strategies employed like the use of advocacy and lobbying, campaigns and protests – often faces resistance from communities as it means challenging the status quo or even the power holders and duty-bearers. Many communities thus resist such strategies as these involve face-to-face interactions with LGU officials, challenging existing power equations and demanding their accountability on public related works. For poor, vulnerable and marginalized communities, their struggle for basic survival often precedes their engagement in civic action (that can be very time intensive); resistance has thus been encountered by CCJD and its partners while building capacities of groups on the use of such approaches.

2. Conflicting Laws based on Human Rights Standards

An HRBA works best in an environment where there are enabling laws and policies in place. However, enabling policy frameworks like the LGC and IPRA have been negated to a large extent by disempowering laws like the Mining Act of 1995 - wherein all public and private lands can be thrown open for mining operations to foreign companies and give them total control over such operations – that has endangered the land rights of communities, including indigenous communities. Section 56 of the Mining Act states that states that “property rights within the ancestral domains already existing and/or vested upon affectivity of this Act, shall be recognized and respected,” excludes lands that are privately owned, from the scope of ancestral domains. This has the effect of practically negating the progressive definition of ancestral domains contained in Section 3 of the Act. Mining companies have taken this provision to further their interests, interpreting “vested rights” as including mining concessions. Thus, under such interpretation, mining concessions already existing prior to the affectivity of IPRA are excluded from the scope of ancestral domains. NGOs and indigenous communities have taken a strong stand against such interpretation. To include mining concessions within the purview of vested rights could open the floodgates to exclusion from the scope of

ancestral domains sizable lands that are now under timber concessions and permits to operate commercial tree farms. Also included are the mineral lands of large mining companies in the Cordillera and the fertile lands owned by agri-business companies in Mindanao. Though there was major judicial activism against this Act, the Supreme Court also acted against community interests by ordering only a temporary deferment of the implementation of the law.

3. CHRP's constraints in addressing human rights concerns

As mentioned elsewhere in this paper, the role of the CHR in capacitating and developing skills of diverse stakeholders on Human Rights-Based Approaches has been exemplary. But, the Commission faces severe budget constraints – with an annual budget of only around 200 million pesos, there are limitations on the level of resources that CHR can devote to training and capacity development. As budgetary allocations (or the lack of such allocations) to a sector signals the Government's commitment to that particular sector, such resource constraints plaguing the CHR actually poses questions on whether the Government, at the macro-level, is serious about addressing human rights issues. Similar is the case of the IPC – though set up to address and protect the rights of such groups, the Commission has been plagued with severe financial crisis that hampers its effective operations and reach.

4. Strengthening Institutions and Program Tie-Up

Given the success of the project, the Center envisions to cover as many areas and regions possible in order to institute a human rights-based awareness, participation and empowerment among the local communities with media's relentless commitment to the practice of public journalism.

The Center should be able to formalize its tie-up with the CHRP to ensure more systematic and wider outreach of the project. There is a need to revisit the institutional arrangement of the GOP and UNDP under the leadership of the CHRP as the implementing partner in terms of the participation and involvement of Civil Society Organizations for a more massive implementation or mainstreaming of the HRBA in the projects and activities of the CSOs especially the media groups.

5. Building HRBA Capacities

The CHRP under the GOP-UNDP Governance programme should attempt to revisit the spirit and the potentials of the practice of public journalism in bringing about more purposive participation and empowerment of local communities.

The CHRP should look into the possibility of adopting a national training program on HRBA among local media groups giving focus on the gain achieved by the CCJD in Palawan, Bicol province, Western Visayas, Mindanao areas and other local communities.

6. HRBA as Applied to Public Journalism

The HRBA is highly replicable except that at this point, the implementers of the approach still lack the political will to effect a more deliberate and systematic documentation and developmental monitoring and evaluation of the gains and successes of the HRBA in selected projects like that of the CCJD. From the CCJD experience should already be crafted a Handbook or Guide for a CSO-Driven Implementation of the HRBA.

As in the case of the CCJD, its proven success in marrying the HRBA with community-based public journalism should merit the development and production of such Handbook that will guide local media groups in the mainstreaming of the HRBA into their public journalism work that would cause further improvement to local governance.

Overall, this is one case, which is most encouraging in so far as being able to demonstrate the workability of the HRBA conceptual framework and operational definition on the ground. HRBA into the public journalism process was compatibly demonstrated yielding to results up to outcome level. The mainstreaming of HRBA into public journalism did not make use so much of HRBA tools. It employed orientation, training, dialogues and use of HRBA resource persons throughout the process.

CHAPTER 8

CASE 6 - National Human Rights Action Planning ¹⁴⁵

This chapter provides another unique application of HRBA¹⁴⁶, which was implemented using a combination of conventional and non-conventional methods. This case exemplifies, HRBA as a complementing approach to compliance approach. Using the same case analysis, the practice of HRBA in this case brings up more comprehensive dynamics involved in HRBA.

A. Overview of the Case Study

This case entitled “National Human Rights Action Plan (NHRAP)” is an ongoing initiative of the Presidential Human Rights Committee (PHRC) under the Office of the President. The project originated from the issuance of Administrative Order 163 on December 10, 2006. Upon recommendation of the Commission on Human Rights, A.O 163 prescribed among others the formulation of the National Human Rights Action Plan and to adopt a “Human Rights-Based Approach” in the formulation of said plan. This case study covered the preliminary phases of the NHRAP demonstrating processes of HRBA from the groundwork to the drafting of the plan. This covered the period May 2008 – July 2009. Not included in this case study are the integration of the thematic plans and the Regional Human Rights Action Plan (RHRAP), which was deferred for implementation in phase 2 of the NHRAP.

1. Purpose of the Case Study

The case study seeks to attain the following objectives:

- a) To showcase the elements of HRBA in the design and process of national action planning;
- b) To illustrate the guidelines and tools for the practical application of HRBA both at the national and local levels and to demonstrate the policy support necessary to institute the approach at all levels of governance in the country;
- c) To demonstrate the use of human rights indicators in national human rights action planning in defining the quality of the plan; and
- d) To demonstrate the use and benefit of HRBA in enhancing accountability and empowerment among governance stakeholders involving both duty-bearers and claimholders.

2. Project Design

Under Administrative Order No. 163 dated December 8, 2006, President Gloria Macapagal Arroyo strengthened the Presidential Human Rights Committee (PHRC). The PHRC was established under Administrative order No. 29 on January 27, 2002. In addition to expanding its membership, its functions and duties are further elaborated to include among others, a) to formulate the National Human Rights Action Plan in accordance with international human rights treaty obligations and to adopt a “Human Rights-Based Approach” in the formulation of such plan; and b) to coordinate compliance with international human rights obligations to which the Philippines is a state party. Basing on this mandate, the national action planning shall be an effective tool to continuously and progressively implement the government’s human rights obligations in collaboration with all other sectors of the Philippine society.

The NHRAP is a follow through activity of the Universal Periodic Review (UPR) on the Philippine Human Rights Situation called by the UN Human Rights Council in April 2007. The UPR system is an international mechanism to help member-states of the United Nations to respond more effectively with their human rights obligations on human rights. The mechanism works within the context of recent domestic and global developments that point to a changing environment that affect the level of enjoyment of both the civil and political rights and economic, social and cultural rights of the people especially the poor, marginalized and the disadvantaged.

In the context of the International Human Rights System, national action planning and implementation is a state mechanism that can help, both government and civil society, to resolve human rights problems in a continuing process, which involves more than identifying alleged wrongdoers and exhorting governments to improve their performance, but also, to capacitate them altogether in bringing about genuine improvements in the domestic scene, that requires resources and long term effort in the areas of education, institutional strengthening and institution-building.¹⁴⁷ The envisioned national action planning shall cover the period 2010-2014. This is a sequel to the first Philippine Human Rights Plan: 1996-2000. As can be noted, there was no updating of the plan for a period of 8 years.

3. Summary of Project Gains

As of this final writing of the project case, the NHRAP shall have been launched on December 10, 2009. More specific gains point to instituting the management of the national action planning process through a rights-based structure composed of multi-sectoral thematic clusters organized by human rights treaty. There are (8) eight thematic clusters composed of both government and civil society groups. These clusters correspond to each of the following International Human Rights Treaties to which the Philippines is a signatory: International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention Against Torture (CAT), Convention on the Rights of the Child (CRC), Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), Convention on

the Rights of Migrant Workers (CMW) and Convention Against Racial Discrimination (CERD) and Convention on the Rights of Persons with Disabilities (CRPD).

The eight (8) rights-based thematic clusters were organized by identifying the different agencies and civil society organizations (CSOs) concerned with the specific provisions of each of the human rights treaty and which carry mandates relevant to the treaties. Hence for purposes of national action planning, these clusters prioritized human rights issues and problems raised during the UPR and in various concluding observations of the treaty bodies, which was made the basis for the conduct of consultations with concerned vulnerable and disadvantaged sectors.

The eight (8) thematic clusters through consultations with concerned government agencies and relevant CSOs developed and produced their respective thematic chapters of the NHRAP to include a planning matrix designed for local consultation.

The issuance of Administrative Order 249 prescribes the further strengthening of government policies, plans and programs for the effective promotion and protection of human rights on the occasion of the 60th anniversary of the Universal Declaration of Human Rights. The Administrative Order basically provides areas of human rights compliance by different government agencies initially premised on the priorities set by these government agencies in the formulation of the national action plan.

4. Summary of Lessons Learned

Essentially it is difficult to apply the HRBA even if the Office of the President has issued two enabling directives that prescribed the promotion and protection of human rights. The government machinery is not generally oriented to the various International human Rights Treaties that it has long ratified and even if there is awareness, the application of human rights standards to development plans and programs is another difficult process.

Institutional and policy framework is vital to laying down the groundwork for application of the HRBA to national action planning. Various stakeholders both duty-bearers and claimholders

B. Overview of the Project Proponent

1 Mission and key functions/services

The PHRC is composed of the following: The Executive Secretary as the Chairperson; The Secretary of Justice as Vice Chairperson; the Secretary of Foreign Affairs as Co-Vice Chairperson; The Secretary of Education; the Secretary of Interior and Local Government; the Secretary of National Defense; the Secretary of Health; the Secretary of Social Welfare and Development; the Secretary of Budget and Management; the Press Secretary; the Director-General of the National Economic Development Authority; the Chief Presidential Legal Counsel and the Lead Convenor of the National Anti-Poverty Commission.

Section 3 of AO 163 provides for the functions and duties of the PHRC as follows: to formulate the National Human Rights Action Plan in accordance with international human rights treaty obligations and to adopt a "Human Rights-Based Approach" in the formulation of said plan; to undertake the necessary measures that will ensure its adoption and implementation; to assist victims of human rights violations and their families, especially victims of enforced or involuntary disappearances, in enforcing their rights under pertinent laws including but not limited in The Victim Compensation Program (R.A. 7309) and the Witness Protection Program (R.A. No. 6931); to assess and monitor all aspects of the human rights situation in the country and to collate all necessary data on human rights violations and abuses; to set up and implement a media program to portray an accurate assessment of the human rights situation in the country; to ensure compliance with and strict adherence by the government to all its obligations under international human rights instruments where the Philippines is a party, including the timely submission of treaty implementation reports, replies and comments on cases filed with the United Nations; to conduct quarterly dialogues with the President; to submit annual dialogues with the President; and to perform such other functions and duties as may be directed by the President and/or as may be necessary to meet the objectives of the Committee.

2. Mandate, Structure and Processes

In order to improve compliance by the Philippines with the International Human Treaties, to which it is a signatory, Section 5 of the Administrative Order provided for the organization of Working Groups and Lead Agencies to take charge of coordinating compliance with the treaties as follows:

- a) The Department of Justice – International Covenant on Civil and Political Rights (ICCPR)
- b) The Department of Interior and Local Government – Convention against Torture (CAT)
- c) The National Commission on Indigenous People – Convention on the Elimination of Racial Discrimination (CERD)
- d) The National Economic and Development Authority – International Covenant on Economic, Social and Cultural Rights (ICESCR)
- e) The Department of Labor and Employment – Convention on the Rights of Migrant Workers (CMW)
- f) The National Commission on the Role of Filipino Women – Convention on the Elimination of Discrimination against Women (CEDAW)
- g) The Department of Social Welfare and Development – Convention on the Rights of Child (CRC)
- h) National Commission on Disabilities Affairs (NCDA)- Convention on the Right of Persons with Disabilities

These lead agencies also chair the various working groups for each of the treaties. For purposes of the national action planning, the working groups were expanded to include CSOs, which now comprise the various eight (8) Thematic Clusters.

C. Evidence-Based Application of HRBA in Project Implementation

The NHRAP framework was designed as early as June 2008. The design of the HRBA for national action planning was done in very detailed and intricate manner in order to orient the entire government machinery and the participating CSOs on human rights and the approach itself. HRBA application was initially promoted through the development and dissemination of a National Action Planning Guide.¹⁴⁸ The NHRAP Guide was developed and disseminated to the eight (8) Thematic Clusters in order to provide them with detailed orientation on the NHRAP process applying the HRBA. The guide contains the planning vision, mission, human rights agenda, as well as the comprehensive structure and contents of the NHRAP.

The HRBA as operated in the NHRAP was made through a deliberate mainstreaming of human rights principles, norms, standards, practices into the development programming processes of all governance actors. Therefore, in principle and in practice, the HRBA shall engage all sectors of Philippine society in a bottom-top and top-bottom consultative governance process of: a) shifting paradigm from needs to rights; b) the use of international human rights standards and its harmonization with domestic laws; c) operationalization of the human rights principles, accompanying obligations and entitlements of the government and the people respectively, in planning and programming of development, and d) capacitating both duty-bearers (government) and civil society (claimholders) on human rights norms, standards and practices in the course of mainstreaming them to both the development and governance processes.

The NHRAP Handbook¹⁴⁹ was also developed specifically to provide practical steps for the application of HRBA in national action planning. It was designed for the use of political leaders, government administrators and representatives of CSOs who are spearheading the development and implementation of the NHRAP at the national, regional, provincial and local levels. Contained in the handbook are roles of both duty-bearers and claimholders involved in the NHRAP, the phases of the NHRAP. More importantly, the sequential steps on the use of HRBA were also prescribed based on the following sequential steps:

- a) To identify specific rights involved in every problem and condition that affect the vulnerable and disadvantaged groups;
- b) To determine obligations and accountabilities of government and other non-state actors (duty-bearers) and entitlements of vulnerable and disadvantaged groups (claimholder), in every human rights issue and concern;

- c) To analyze conditions of vulnerable and disadvantaged groups using human rights standards corresponding to the dimension of freedoms and entitlements to services such as availability, physical, economic and information accessibility, non-discrimination, acceptability, cultural adequacy, affordability, among others depending on the services involved;
- d) To apply human rights principles in the NHRAP that are inherent to the content of human rights (universality, non-discrimination and equality, indivisibility, interdependence, inter-relatedness, and accountability; inherent to the content of good and democratic governance (attention to vulnerable groups, equity, people's participation, independence of the judiciary, legislative capacity and rule of law and transparency) and the overarching principle (empowerment);
- e) To apply human rights principles and human rights standards in the formulation of policies, designing of programs, projects and activities, among others; and
- f) To consider the corresponding state obligation and rights entitlements of concerned vulnerable sectors in the designing of the features and contents of programs, projects and activities.”

The NHRAP Formulation Guide was disseminated to the members of the PHRC and the thematic Clusters that were organized for the NHRAP Formulation. Also, an NHRAP Guide for Conduct of Baseline Study¹⁵⁰ was designed as a guide to be followed in the conduct of baseline studies for the NHRAP. From July – December 2008, the eight (8) thematic clusters identified the priority human rights agenda to be addressed by the NHRAP followed by the formulation of thematic objectives and setting of indicators using human rights standards. Later PHRC prescribed through a guide the following contents of the baseline study for each of the agenda set by the thematic clusters. The content of the guide point to establishing baseline information on : “What are the existing legal framework, as well as, the existing institutions for the protection of human rights and the state of human rights awareness and education in relation to the human rights agenda or across the agenda?; What are the main areas in which problems have been encountered by the government (duty-bearers) in meeting the country's human rights obligations pertinent to the human rights agenda?; Describe the situation of vulnerable and disadvantaged groups (claimholders) and the picture presented by given social indicators (following some criteria with sex disaggregated data), highlighting the major human rights issues encountered by the groups relevant to the human rights agenda? [Where such social indicators are not available, the NHRAP may consider plans to collect the necessary data regularly]”

Also, as contained in the guide¹⁵¹, the priority tasks under the NHRAP were also given criteria such as:

- a) Where there are people whose right to life is at risk, who are living in pain, fear and insecurity, who are living in misery because their economic, social and cultural rights are denied, or who suffer discrimination;

- b) The severity of the problem identified in terms of its human rights impact;
- c) Special attention should be given to the needs of vulnerable groups and a particular effort should be made to bring them into the process as participants;
- d) Where there is a need to strengthen the legal and institutional framework for the protection and promotion of human rights and programmes for human rights education;
- e) The cost implications of possible human rights “solutions”, taking into account the availability of resources and the steps to overcome constraints in resources;
- f) The impact of accomplishment of the task on other development plans, commitments and objectives (MTPDP, MDGs); and
- g) The extent of public concern over the issue.”

In October 2008, the PHRC further formulated some guidelines for the conduct of consultations. The Committee designed system for both sectoral and local consultations. At the national level, multi-sectoral consultations were set during the preparation of the planning matrices of the various thematic clusters. At the local level, the same design was adopted to include a more expanded consultation arrangement with leagues of local officials, devolved agencies of government and the membership of the Regional Development Councils. Provincial consultations were also identified to involve leagues of governors and mayors, human rights action officers, peoples’ organizations and non-government organizations.

The key principles¹⁵² adopted by PHRC for the NHRAP consultation process include the following: both the process and outcome of the consultation are equally important; it must be inclusive representing the broadest representation of the entire country; It must be transparent, public and action oriented; must create awareness and commitment to the universal standards of human rights and international human rights treaty, to which the Philippines is a state party; it must tackle thoroughly the human rights issues of the affected vulnerable, disadvantaged and marginalized; reflect the interdependence and indivisibility of these issues in the manner by which these people are affected.

Sometime in November 2008, a two-day Consultation-Workshop cum Orientation was conducted with PHRC Lead Agencies. This was undertaken with the focal representatives of the eight (8) lead agencies of PHRC for substantiation of the planning matrices of the various thematic clusters. Orientation and workshop were conducted during the consultation. With the help of human rights specialists from the Commission on Human Rights of the Philippines, the lead agencies went through the matrices and reviewed their contents as to the specific problems that were linked to priority human rights agenda, the applicable human rights standards derived from the international human rights instruments, identification of sectors affected, the solution or measures and the probable contents of such measures referring to the use human rights standards, the parties responsible for undertaking the solutions and measures to include both the duty-

bearers referring to government and other private entities as well as claimholders referring to organizations and networks of vulnerable and disadvantaged sectors who will help in implementing the measures.

After the consultation-workshop, the lead agencies consulted again their respective thematic clusters on the revised planning matrices covering the period December 2008 – March 2009. This venue was used to educate the member-agencies and organizations of the various thematic clusters on the linking and application of human rights normative standards to specific problem they jointly identify to address as the NHRAP priority problems.

By end of March 2009, Consultation-Workshop cum Orientation was conducted for Regional Directors of the NEDA and DILG and representatives of Local Government Oversight Offices from 48 critical provinces. The revised planning matrices were again brought to another consultation-workshop. This time, the consultation involved Regional Directors of NEDA and DILG, as well as representatives from the LGOOs representing 48 priority provinces for the NHRAP. Results of the consultation include Regional planning matrices with provincial dimensions of each priority problems identified for each region. This will be the basis of the RDC in convening series of Council meetings and consultations with concerned sectors in the regions, which would culminate in a Regional Write-shop of the RDC properly assisted by the NEDA Regional Office.

Between April – June 2009, the PHRC followed up on the progress of the NHRAP through the Issuance of a Tracking Guide on the Application of the HRBA in both the Content and Process of the NHRAP (Refer to Appendix N). This guide provides key pointers in question form for use of the thematic clusters, lead agencies, RDCs and NEDA Regional Offices relative to contents and processes of the NHRAP that are compliant with HRBA. Below are sets of tracking questions contained in the Guidebook, where human rights principles, standards and practices are embedded into the formulation of the NHRAP.

For the month of July to October, a series of Area Consultations on the NHRAP was conducted in strategic regions in Luzon Visayas and Mindanao. The PHRC organized Area Consultation Teams composed of representatives from each of the thematic clusters. The results of the consultations were incorporated by the lead agencies into their respective thematic plans.

And finally on December 10, 2009, a national multi-sectoral forum was held to launch the NHRAP and to encourage more comments and inputs from about 300 participants that participated in the activity. At this stage, an Executive order is being drafted for the implementation of the plan and the NHRAP documented has been turned over for printing.

D. Institutional/Organizational Issues and Constraints

At the time this case was documented, the eight (8) thematic clusters were engaged continuously with concerned agencies and organizations consulting them individually on their accountabilities, planned targets vis-à-vis human rights standards provided in the international instruments, specific programs and projects and funding commitments corresponding to each performance indicators under each treaty.

The varying levels of institutional commitments of concerned agencies and organizations attributed to lack of common understanding on the government's obligations under each of the eight (8) International Human Rights Treaties. The long and tedious process of studying and applying the various human rights principles and standards in the formulation of objectives, identification of indicators at the structural, outcome and process level, applying such principles and standards in the identification of performance targets in progressive manner; and operationalizing the same in the identification of programs and projects that would serve as enablers for realizing the human rights principles and standards being applied. Gauging from the proceedings of the NHRAP formulation, the consultative process of establishing accountability in terms of enabling particular agencies to commit themselves to each of the performance indicators, making them apply certain human rights principles and standards to their performance targets, programs and projects; and making them pledge for incorporation of such targets, programs and projects into their respective agency budgets. Moreover, the resource-intensive process of consulting the concerned agencies, sectors, regions and local communities, which encountered tremendous limitations and challenges in terms of mobilization of funds both at the national and local levels to which the development partners, lead agencies and the NEDA Regional Office provided contributions.

E. Evidence-Based Application of HRBA in Project Outputs and Outcomes

This section examines the human rights content of both the project outputs and outcomes of the NHRAP formulation.

1. Content Analysis of the Thematic Plans by Treaty

HRBA was used both during the consultation process and actual formulation of the plan. As mentioned earlier a Tracking Guide was issued in addition to the NHRAP formulation Guide, Consultation Guide and Guide for the Conduct of Baseline Study. Resulting from the implementation of the HRBA Consultation Guide, series of consultations were conducted by the eight (8) Thematic Clusters. Eight (8) Consultation Matrices corresponding to the core International Human Rights Instruments were generated during the consultations. The following output is a sample of the consultation output. As shown in the following table, the formatted tool provided the guidelines for the application of HRBA in some of the issues and concerns involving CEDAW and CAT, in the following manner:

- a) Identified needs or problems were linked to particular provisions of relevant Treaties for the identification of the entitlement of affected sector
- b) Based on identified needs or problems and the relevant entitlements pursuant to the applicable Treaty, the duty-bearer or accountable agency or branch of government is established.
- c) Corresponding solutions were identified that captures the measures that the accountable agency would need to undertake to respond to the entitlements of the affected sectors
- d) Both the duty-bearers and claimholders are identified in Columns 4 & 5 of the same table, to illustrate the cooperative arrangements between them in performing the state obligation on the part of the duty-bearer and contributing to the realization of the entitlements by the claimholders;
- e) Both the claimholder and duty-bearers come into agreement on time involved in accomplishing the solution;
- f) Both the duty-bearers and claimholders come into agreement on the outputs expected to come about from the identified solution in a given target date. It could be noted that the identified outputs qualifies the results using rights-based standards picked up from the applicable treaty; and
- g) The commitment to expressly incorporate the budgetary requirements of the solution/measure in the respective budgets of accountable agencies

Table No 6

**Sample Output of Accomplished Consultation Matrix
(CEDAW & CAT)**

HR ISSUE	THEMATIC OBJECTIC	ACCOUNTABLE ENTITY	SOLUTIONS	STAKEHOLDERS		TARGET YEAR	OUTPUTS	RESOURCE REQUIRMENTS
				DUTY-BEARERS	CLAIMHOLDERS			
Convention on the Elimination of Domestic Violence Against Women (CVEDAW)								
The right to life, right not to be subjected to cruel, inhuman or degrading treatment, right to protection according to humanitarian norms, right to liberty and security of person, rights to equal protection under the law, right to equality in the	Need to enhance the capacity of the justice system to effectively and efficiently implement existing laws that protect and uphold the rights of women against gender-based violence.	5 Pillars of Justice System: community, police, prosecution, courts /judiciary, penology National and local government agencies and units CSO groups National, regional, provincial, and municipal IACAT & IACVAWC	Gender sensitivity training seminars for duty bearers of the justice system (local government officials, law enforcers, social workers, health care professionals, prosecutors, and judges). Establishment	DOJ, NCSB PIA SC- CGRJ DSWD NCFRW DILG, PNP BJMP OPAPP LGUs CSOs	Women and girl victims of domestic violence, domestic and international trafficking, and sexual assault. Economically disadvantaged women Women in conflict areas, ARMM Women in detention Victims of disappearances	2009 -2010	Report on Baseline Information gathered and utilized Situational Analysis on the Access of Women to Justice Assessment of Existing Redress mechanisms against VAW Mechanisms Performance Monitoring Scheme for Justice System personnel Gender-sensitive behavior and attitude among personnel SC employees, lawyers, researchers, judges and court personnel trained on gender-	To be charged against agency funds; to be incorporated into GAA under the agency’s Program, Project Activities (PPA)

HR ISSUE	THEMATIC OBJECTIC	ACCOUNTABLE ENTITY	SOLUTIONS	STAKEHOLDERS		TARGET YEAR	OUTPUTS	RESOURCE REQUIRMENTS
				DUTY-BEARERS	CLAIMHOLDERS			
family, right to the highest standard attainable in physical and mental health, the right to just and favorable conditions of work. [Arts 1, 2, 5: The right to non-discrimination; Art. 6: The right to be protected from trafficking and prostitution; Art 11: The right to safe working conditions; Art.15: The right to equality before the law; GR9:		mechanisms	of a unified VAW reporting system Advocacy for the establishment of additional courts for speedier dispensation of justice. Continuing dialogue with accountable agencies and stakeholders. Popularization and dissemination of Performance Standards for Delivery of		Women with disabilities		responsive handling of cases Proceedings of Consultation/ Policy Dialogue Meetings Budget support for establishment of additional family courts and training of personnel Active and visible local level IACAT VAWCs functional Functional VAW referral network	

HR ISSUE	THEMATIC OBJECTIC	ACCOUNTABLE ENTITY	SOLUTIONS	STAKEHOLDERS		TARGET YEAR	OUTPUTS	RESOURCE REQUIRMENTS
				DUTY-BEARERS	CLAIMHOLDERS			
Documentation and collection of data on the status of women; GR19. Grave abuses against migrant women: GR26]			Services Gender Justice Awards					
Convention Against Torture (CAT)								
Right not to be subjected to torture, right for protection claims, remedies, compensation, rehabilitation	Need to enact Torture law consistent with CAT	NGAs; CSOs/NGAs; populace at large esp. vulnerable grps.	Studies/fora/ consultations on establishing NPMs	Concerned NGAs and TC members	Prisoners, detainees, women, children, youth, elderly, indigenous cultural communities, persons with disabilities	3/15/2009	Published results to support / indicate for appropriate administrative (ExecutiveBr.) and legislative policies and actions	Budget of Concerned NGAs and TC members

Following the conclusion of the series of consultations, the eight (8) Thematic Clusters convened further for the formulation of their respective Thematic Plans. As presented earlier, each Treaty is assigned a particular chapter. For purposes of this, dissertation, the following condensed document would show the content of each chapter per Treaty. Thus, the eight (8) Thematic Clusters convened again for the formulation of their respective Thematic Plans and Chapters following the prescribed HRBA guidelines.

On the basis of the various needs and problems raised during the planning consultation, each Thematic Cluster was made to prioritize these concerns to include those earlier identified in the various Concluding Observations and Reports endorsed to the Philippines by the pertinent UN Treaty Bodies. The prioritized needs and problems were translated into specific Thematic Objectives. These vary from improving the policy environment by adopting legislations that are congruent with the implementation of the State Obligations specified under the relevant Treaty.

After which specific indicators were identified corresponding to each Thematic Objective at applicable levels: structure (e.g. Revised relevant laws on Anti-Squatting; Process (Increased in public awareness); and Outcome (Reduced number of illegal demolition).

**Table 7- Sample Contents of Thematic Plan by Treaty
(ICESCR & CRC)**

THEMATIC OBJECTIVES	STRATEGIC TREATY INDICATORS		BASELINE INFORMATION	THEMATIC PERFORMANCE TARGETS		THEMATIC PROGRAMS, PROJECT & ACTIVITIES						
	INDICATORS	ACCOUNTABLE AGENCY/ BRANCH		MEDIUM	ANNUAL	PROGRAMS , PROJECTS & ACTIVITES	AREAS COVERED	RESPONSIBLE AGENCIES/ ORGANIZATIONS	COMPLETION DATE	EXPECTED OUTPUTS	LINKAGE WITH OTHER PLANS	RESOURCE REQUIREMENTS
<i>International Covenant on Economic, Social and Cultural Rights (ICESCR)</i>												
To review all existing legislation relevant to the practice of forced evictions to ensure its compatibility with the provisions of the ICESCR (UPR)	Revised relevant laws to harmonize/enhance implementing mechanisms and funding scheme i.e. * UDHA * Anti-Squatting Law	Congress (Committee on Human Rights)	Reported demolition and eviction cases for the period of 2006-2007 (<i>Source: PCUP</i>), viz ¹⁵³ : a) For the year 2006 , monitored a total of 95 demolition cases affecting 4,140 families a.1) Just and Humane – 36 demolitions affecting 1,688 families a.2) Summary – 59 demolitions affecting 2,452 families.	Law providing budget for resettlement areas for those affected by eviction	2010 1. Advocacy & consultations 2. Local ordinances implementing UDHA 3. Local ordinance allocating budget for the provision of relocation	1.Conduct of consultations with stakeholders both duty-bearers and claimholders 2. Organization of lobby groups	National & Local National	Congress/Committee on Human Rights LGUs ULAP HUDCC NHA PAHRA NUPSC (National UHRBAn Poor Sectoral Council) NAPC Concerned CSO's MMDA	2010 2010	Law providing funds for resettlement areas Lobby groups organized	MTPDP /MDG (Goal 7) HUDCC Plan NHA Plan LGU Plans	Incorporation of budgetary requirements into the GAA under the PPA of concerned agencies

THEMATIC OBJECTIVES	STRATEGIC TREATY INDICATORS		BASELINE INFORMATION	THEMATIC PERFORMANCE TARGETS		THEMATIC PROGRAMS, PROJECT & ACTIVITIES						
	INDICATORS	ACCOUNTABLE AGENCY/ BRANCH		MEDIUM	ANNUAL	PROGRAMS , PROJECTS & ACTIVITES	AREA S COVE RED	RESPONSIB LE AGENCIES/ ORGANIZAT IONS	COMP LETI ON DATE	EXPE CTED OUTP UTS	LINKA GE WITH OTHER PLANS	RESOUR CE REQUIRE MENTS
	Reduced number of incidents of illegal demolitions		b) For the year 2007, monitored a total of 82 demolitions affecting 8,320 families b.1) Just and Humane – 29 demolitions affecting 5,181 families. b.2) Summary – 53 demolitions affecting 3,139 families. c) For the year 2008, monitored 27 demolition/eviction cases c.1) Administrative demolitions – 19 affecting 2,370 families c.2) Court		sites	3. Issuance of an Executive Order reinforcing PCUP's mandate as the sole clearing house prior to the conduct of eviction	Nation al		2010	Execut ive Order issued with PCUP' s manda te as sole clearin g house reinfor ced		

THEMATIC OBJECTIVES	STRATEGIC TREATY INDICATORS		BASELINE INFORMATION	THEMATIC PERFORMANCE TARGETS		THEMATIC PROGRAMS, PROJECT & ACTIVITIES						
	INDICATORS	ACCOUNTABLE AGENCY/ BRANCH		MEDIUM	ANNUAL	PROGRAMS , PROJECTS & ACTIVITES	AREAS COVERED	RESPONSIBLE AGENCIES/ ORGANIZATIONS	COMPLETION DATE	EXPECTED OUTPUTS	LINKAGE WITH OTHER PLANS	RESOURCE REQUIREMENTS
			ordered demolitions – 9 affecting 630 families			activities						
<i>Convention on the Rights of the Child (CRC)</i>												
To push for continuing development of domestic legislation for further protection of the rights of the child under all circumstances.	Child rights and child protection measures enshrined in legislation Increased public awareness	Congress Committee on Children's Welfare/Committee on Youth, Women and Family	DSWD has initiated and/or supported bills on items 2,7,8, and 9 CWC through its structures conducted activities that will support the passage of the enumerated proposed legislations Discrimination against children born out of wedlock exists STATISTICS? Draft revised Release on Recognizance bill done by PPA	Bills drafted and filed at both the Senate and the HOR Enacted legislations on the legislative concerns (Are you targeting all these in the next 5 years?) : 1) child pornography 2) foster care	2010 - Reviewed different bills on the protection of children, prepared agency position papers and designed advocacy campaign 2011 organized lobby groups and advocacy	1. Review/formulation and development of/feedback to anti-corporal punishment bills and other bills affecting children (e.g. child pornography, prostitution, foster care, age of sexual consent, RH, DRR, etc)		CWCs Comm. on Family & Alternative Parental Care League of Cities/ Municipalities , NGOs (Save the Children)		Revised draft bills formulated 2. Position papers delivered 3. Commitments from Congress/Se	Child 21 MTPDP	

THEMATIC OBJECTIVES	STRATEGIC TREATY INDICATORS		BASELINE INFORMATION	THEMATIC PERFORMANCE TARGETS		THEMATIC PROGRAMS, PROJECT & ACTIVITIES						
	INDICATORS	ACCOUNTABLE AGENCY/ BRANCH		MEDIUM	ANNUAL	PROGRAMS , PROJECTS & ACTIVITES	AREA S COVE RED	RESPONSIB LE AGENCIES/ ORGANIZAT IONS	COMP LETI ON DATE	EXPE CTED OUTP UTS	LINKA GE WITH OTHER PLANS	RESOUR CE REQUIRE MENTS
			Existing laws do not adequately protect children from all forms of corporal, humiliating and degrading punishment especially inside the home. (STATISTICS?) Bill on release of recognizance was awaiting deliberation by the Committee on Justice In 2006, the United Nations (UN) adopted the Paris Principle on Children Associated with Armed Forces or Armed Groups. It states that any person below 18	3) banning corporal punishment including humiliation and degradation of children in all settings including the home 4) increasing the age of statutory rape 5) legitimizing children born to underage parents 6) amendment to RA 7610, specifically to children as	campaign full swing; formulation of local and national legislations 2012 - Participation in Committee hearings and discussion groups created at agency levels	/intra-agency discussions 2. Clearly articulated agency position on corporal punishment, and other bills affecting children and better campaigns to respective Congressmen / Senators 3. Participation in committee hearings and TWGs/Legisl				nate obtained 4. Support groups created		

THEMATIC OBJECTIVES	STRATEGIC TREATY INDICATORS		BASELINE INFORMATION	THEMATIC PERFORMANCE TARGETS		THEMATIC PROGRAMS, PROJECT & ACTIVITIES						
	INDICATORS	ACCOUNTABLE AGENCY/ BRANCH		MEDIUM	ANNUAL	PROGRAMS , PROJECTS & ACTIVITES	AREAS COVERED	RESPONSIBLE AGENCIES/ ORGANIZATIONS	COMPLETION DATE	EXPECTED OUTPUTS	LINKAGE WITH OTHER PLANS	RESOURCE REQUIREMENTS
			years of age who is or who has been recruited or used by an armed force or armed group in any capacity including but not limited to children, boys and girls, used as fighters, cooks, porters, messengers, spies or for sexual purposes are considered ‘child soldiers.’ It does not only refer to a child who is taking or has taken a direct part in hostilities. In 2006, the United Nations (UN) adopted the Paris Principle on Children Associated with Armed Forces or Armed Groups. It states that any person below 18	Zones of Peace 7) harmonization of inter-country and domestic adoption 8) magna carta for day care workers 9) reproductive health bill 10) removing classification of children as "legitimate" and "illegitimate" (HB 455) 11) anti-prostitution		ative Consultative Meetings at National and Local levels 4. Advocacy and campaign plan for the passage of laws protecting children from abuse, exploitation and violence a. Briefings with Senators and Congressmen b. Letter						

THEMATIC OBJECTIVES	STRATEGIC TREATY INDICATORS		BASELINE INFORMATION	THEMATIC PERFORMANCE TARGETS		THEMATIC PROGRAMS, PROJECT & ACTIVITIES						
	INDICATORS	ACCOUNTABLE AGENCY/ BRANCH		MEDIUM	ANNUAL	PROGRAMS , PROJECTS & ACTIVITES	AREAS COVERED	RESPONSIBLE AGENCIES/ ORGANIZATIONS	COMPLETION DATE	EXPECTED OUTPUTS	LINKAGE WITH OTHER PLANS	RESOURCE REQUIREMENTS
			years of age who is or who has been recruited or used by an armed force or armed group in any capacity including but not limited to children, boys and girls, used as fighters, cooks, porters, messengers, spies or for sexual purposes are considered ‘child soldiers.’ It does not only refer to a child who is taking or has taken a direct part in hostilities.	bill 12) bill on statutory rape (anti-child abuse bill) 13) release on recognizance bill		brigade c.Press Releases d.Development of documentaries						

The project is still ongoing and is not yet in stage of evaluating the outcome. However the baseline study that was conducted for each human rights issue under each treaty would certainly help in evaluating the outcome of the NHRAP five (5) years hence.

2. Process Analysis of HRBA Application

The Thematic Planning under the NHRAP was definitely institutionalized through the various directives, activation of the NHRAP Task Force, formation of eight (8) thematic Clusters and issuance of the following policies and guidelines: NHRAP Formulation Guidelines using HRBA; conduct of Rights-Based Baseline Study; HRBA Tracking Guide on both Content & Process of the NHRAP; and HRBA in Legislative and Administrative Measures. The eight (8) Thematic Plans are stand alone documents that reflect a rights-based formulation of legislative, administrative and program measures that are human rights-based. Through the HRBA, the thematic plans have yielded to a rights-based identification and prioritization of legislative and administrative measures to be pursued by the lead agencies. Among the many measures identified by the different thematic clusters of government and civil society groups are:

ICESCR Thematic Plan. Among the priority rights-based measures crafted are: the formulation & Issuance of a Policy Circular on the use of the RBA in Agency /LGU Planning; conduct of policy study on justiceability of ESCR/identify laws or provisions that can be used in enforcing ESCR; amendment of the Revised Penal Code for the inclusion of ESCR violations as felonies/Passage of a law providing penalties & sanctions for violations of the ESCR; ratification of the Optional Protocol of the ICESCR adopted by the UN General Assembly (*proposed by ESCR-Asia*); legislation Strengthening the CHRP by giving it quasi-judicial powers and increasing its jurisdiction to include ICESCR violations; Allocation of adequate financial resources for investigation & monitoring functions; formulation of a bill that would increase the national budgetary allocation for health or specifically a law amending LGC to make it mandatory to allocate 5% of IRA for health (*Source: DOH*); enactment of law to achieve universal health care through Phil Health by lowering the minimum amount & number of contributions for informal labor; enacting measures to give access to health care, in particular to sexual and reproductive health services for women ;p passage of a law for the amendment of the Labor Code of the Philippines and of the Social Security Act for the inclusion in their coverage members of the informal economy; law suspending automatic appropriation of government funds for debt servicing and prioritizing social services; policy study on the feasibility of bilateral/multi-lateral negotiations or agreements and treaty for debt-services swap; government mechanism to enforce & sanction violations of labor standards compliant with ICESCR especially implementation of accountability monitoring of Wage Boards & regulatory agencies, among others; and policy review on the implementation of the Indigenous Peoples Rights Act of 1997 and Philippine Mining Act of 1995 (RA 7942) thereby recommending policy measures to regulate economic activities connected with the exploration, development and utilization of natural resources, particularly mineral resources

ICCPR Thematic Plan. The major measures prioritized are : policy Studies on Enactment of Legislations on/ or related to civil & political rights to ensure that legislations enacted are consistent with ICCPR provisions; conduct review of proposed bills as to ICCPR compliance; and conduct of policy study through intra-pillar and inter-pillar, dialogues, fora & workshops To institute a coordinated performance accountability and monitoring system following international standards of fairness, among the five (5) pillars of the criminal justice system, among others

CRPD Thematic Plan. Priority measures under this treaty include: organization of technical working group to review, discuss and document propose amendments to BP 344 and RA 7277 and consolidation of proposals, position papers coming from the regions, provinces, cities and other stakeholders; laws adopted by the local government units into Ordinance, Resolutions, Executive Orders To mainstream human rights standards through the implementation and monitoring of domestic policies, plans, programs by government agencies, for the enjoyment all Filipinos with disability; and strengthening of existing Self-Help Groups as lobby groups in the regions, provinces, cities, municipalities and barangays to assist in the passage of local/ national legislations, among others.

CRC Thematic Plan. Specific policy studies and legislative advocacies to be pushed to the passage of legislations that are compliant with the CRC, as follows: Child pornography; Foster care; Banning corporal punishment including humiliation and degradation of children in all settings including the home; Increasing the age of statutory rape; Legitimizing children born to underage parents; Amendment to RA 7610, specifically to children as Zones of Peace; Administrative certification of DSWD to declare a child legally available for adoption; Harmonization of inter-country and domestic adoption; Magna Carta for day care workers; Reproductive health bill; Removing classification of children as "legitimate" and "illegitimate" (HB 455); Anti-prostitution bill; Bill on statutory rape (anti-child abuse bill); and Release on recognizance bill.

CMW Thematic Plan. The thrusts of the NHRAP under this treaty cover: Negotiations of bilateral agreements with other receiving countries specially where incidence of discrimination and abuse are more frequent and sustaining advocacy for bilateral agreements specially with those countries of destination where discriminatory treatment and abuse are more frequent; establishment of additional offices abroad/ expansion of existing POLOs, and to have their additional personnel, which should be in proportion to the number of migrant workers residing within their respective jurisdictions to provide an effective and available recourse for aggrieved migrant workers while in the host country; amendment of Migrant Worker's Act (RA No. 8042), specifically adding provisions relative to medical assistance to migrant workers and other matters which are consistent with CMW; and negotiations of bilateral agreements which provide social security to migrant workers To provide social security to migrant workers in their State of employment with the same treatment granted to their own nationals, among others.

CEDAW Thematic Plan. Under the treaty, the priority measures adopted are: adoption of a Policy Instrument that directs service providers to apply Rights Based (RB) and Gender Sensitive (GS) principles in responding to VAW cases To enhance the capacity of the justice system¹⁵⁴ to effectively and efficiently implement existing laws¹⁵⁵ that protect and uphold the rights of women against gender-based violence; development of a national VAW case/ complaint tracking system that will monitor and assess application of the Anti-VAW Laws; programs, Projects and Activities that capacitate claim-holders and duty bearers to support the Bills proposed under the Women's Priority Legislative Agenda; and increased Reference to CEDAW in policy formulation, program & project development, court decisions, and other public documents, among others

CAT Thematic Plan. The major measures prioritized are: appropriate legislation is enacted consistent with CAT/ OPCAT; and preventive and protective mechanisms in accordance with CAT/ OPCAT and heightened awareness of and respect for HR by state agents, among others.

F. Evidence-Based HRBA Indicators Generated from the project

In the process of using HRBA in the NHRAP, the following success indicators have shaped up:

1. The extent to which identified needs are translated or matched with specific human rights;
2. The extent to which duty-bearers commit to certain human rights targets and performance indicators, programs and projects and corresponding resource requirements;
3. The level of agreement and reconciliation of duty-bearers and claimholders on their perspectives of certain human rights issues and how to resolve them;
4. The extent and degree of participatory consultation with vulnerable groups especially on human rights issues that affect them; and
5. The various legislative, administrative and program measures that were identified to correspond to each identified priority rights to be addressed.

G. User Satisfaction on the HRBA

The eight (8) lead agencies (represented by the focal persons) that are currently shepherding the use of HRBA in the national thematic planning and multi-sectoral consultations expressed in the *User Satisfaction Rating Questionnaire* the following feedback and assessment of the HRBA as they have applied it, as of this stage:

The agencies expressed that the HRBA gave them a specific pattern to follow as to where to start and where to go in concretizing the issues that affect the vulnerable sectors with great straight forwardness in terms of rights and the conditions of these rights of the affected sectors. This was made possible through the various guidelines and guidebooks issued by the PHRC on the HRBA, the orientation as well as the training given on the preliminary use of the approach for thematic planning.

However, what facilitated most in the use of the HRBA is the advantage of having familiarity with the various human rights treaties. Since the approach exacts the fulfillment of both the obligations of the government and the entitlements of the vulnerable sectors, the HRBA proved to be very demanding, difficult and tedious. The areas of difficulty expressed by PHRC agencies is the hurdle involved in getting the commitment of the government of agencies that were identified by civil society organizations that should be responsible for responding to specific human rights issue or concern. Since the HRBA is rooted from the ground, the process involves a long process of consultation with the affected vulnerable sectors; Therefore, the processes needed considerable amount of time and effort for the lead agencies to reach out to the vulnerable sectors. In addition, HRBA is very exacting in providing the information and statistics corresponding to the application of human rights standards as provided under each treaty and in applying the perspective of right in planning, which made the agencies experienced a tug of war between rights and needs during the consultative thematic planning.

Institutional support and commitment would make the implementation of the HRBA easier. HRBA mainstreaming in the agency planning can be easily done without running counter with existing policies and practices of agencies, to include matters involving the use of resources, both human and material resources. This would also facilitate the openness of the consultation process, which exposes government agencies to the militancy of some non-government organizations and the management of the protracted process of consultation involved in the development of the plan in order to comply with the comprehensiveness and interrelatedness of human rights issues and concerns.

The eight (8) lead agencies were in agreement in stating that the HRBA guides them in the implementation of the various International Human Rights Treaties specifically in the following areas: providing focus on the human entitlement of the vulnerable sectors when doing the planning activity; identifying programs, projects and activities not in terms of needs but in terms of the rights of the vulnerable groups; defining the entire plan through a systematic method of applying human rights obligations of the government and human rights entitlements of the vulnerable groups; reorienting the different plans, programs and projects of the government agencies and offices; and applying a deliberate and unconditional focus on human rights in planning and assigning resources.

While the eight (8) lead agencies expressed very positive feedback on the use of the HRBA, they recognize that some considerations will help improve its effective use as

follows: specialized training for all agencies in the application of HRBA in planning; development and issuance of more information materials on the application of the approach in government programs; popularization and operationalization of HRBA down to the smallest LGUs; application of HRBA in all government policies and programs; training of both duty-bearers and claimholders on human rights obligations and human entitlements; tightening of agency responsibility over specific human rights instrument to ensure accountability; including HRBA as Key Result Area especially of the law enforcement agencies; sustaining and strengthening the coordinative function of the PHRC with the highest possible leadership's support; and incorporating the use of HRBA as an important approach to budget planning to ensure fiscal support to the application of human rights standards in the various programs, projects and activities of the agencies.

H. Lessons Learned from HRBA Practice

As earlier mentioned, the combined conventional and non-conventional interventions on HRBA proved to a large extent, the effectiveness of HRBA. This case showcases HRBA as a complementing and not a supplanting approach to facilitate compliance with treaty implementation in the country.

1. HRBA Application in the Project

While the application of the HRBA in the National Action Planning of the PHRC was instituted through a directive, that itself did not guarantee compliance. The PHRC being the proponent of the project undertaking had to institute a system of orientation and coaching to ensure the application of the HRBA in both the process and content of the different Thematic Plans under the responsibility of lead agencies.

Learning about the eight (8) treaties did not happen overnight. Members of the Thematic Cluster, both the GOs and NGOs, needed sometime to internalize the provisions of each treaty.

The HRBA is not that easy to learn. It took the thematic clusters about two to four rounds of consultations for them to adequately identify the human rights standards that apply to specific human rights issues, the formulation of objectives, the determination of strategic human rights indicators at the level of structure, outcome and process, identification of core accountabilities of concerned government branches/agencies and the process of commitment building with concerned government branches and agencies with respect to their respective performance targets both in the medium (2010 -2014) and annual term. Coupled with this, the process of identifying the appropriate programs, projects and activities that would contribute to the attainment of the performance targets that are linked to the various human rights indicators per treaty was a long process too.

The PHRC wanted to pursue as much consultation as possible reaching out to as many organizations representing the different vulnerable sectors. However due to funding constraints, the consultations were limited to a series of thematic cluster meetings and

one multi-sectoral consultation. This was further augmented with networking through the email for possible critic and feedback from various organizations comprising the sectors.

The lead agencies represented by their designated focal persons were responsible for ensuring that the HRBA is applied in the plan formulation. However, due to the different degrees of internalization and exposures of the focal persons in HRBA practice, the application of the HRBA also varied in levels of adequacy and appropriateness. The coaching system on the HRBA application was not sufficient to guarantee effective implementation of the HRBA in the NHRAP.

Hence due to the bureaucratic nature of government organizations, the whole consultation process applied in the NHRAP formulation did not suffice to ensure that internalization of the HRBA was achieved at the institutional level. The focal persons of the lead agencies in this case internalized HRBA application more. It will take awhile before the focal persons will be able to perform an institution-wide echoing of the HRBA process.

In order to manage the limitations of the PHRC and the lead agencies, the Committee engaged the assistance of the Commission on Human Rights of the Philippines (CHRP) to assist the lead agencies and the NEDA Regional Offices in the conduct of continuing orientation and coaching on HRBA in the course of the NHRAP plan formulation.

The formation of the NHRAP Task Force and the Thematic Clusters facilitated the wider application of the HRBA in the plan formulation. However, this was possible only at the technical level. It only assumed that the Heads of Agencies are indeed knowledgeable on HRBA. The issuance of guidelines and Guide Books at different stages of the plan formulation helped in improving the quality of the NHRAP thematic Plans.

This is as far as the planning stage is concerned. The PHRC has to implement a strong capacity building program for both the duty-bearers and claimholders in order to ensure success of the NHRAP especially the application of the HRBA in designing specific NHRAP programs, projects and activities.

Ideally, the HRBA should be directly implemented in drawing up agency plans, meaning it should be mainstreamed into the country's development planning process so that there will be no need to draw up a separate NHRAP. It will take time for government to be truly committed to using the HRBA as an approach to its development planning

Under the Thematic Plan of the ICESCR Thematic Cluster, it identified the issuance of an Executive Order and implementing guidelines that will mainstream the use of HRBA into the development planning of the country. This is the only way to make this sustainable. In the meantime, PHRC has the burden and responsibility of seeing to it that HRBA is applied by the government agencies as mandated under Administrative Order 163.

At the time of the writing of this case study, the draft NHRAP Thematic Plans corresponding to the eight (8) International Human Rights Treaties are undergoing validation at the regional level through the involvement of the NEDA Regional Offices and the regional counterparts of the PHRC's Lead Agencies. The validated plan will undergo multi-sectoral consultations at the area level (composed of five (5) Clusters of Regions) for the much-needed local dimensions on the prevailing human rights situations preferably at the provincial level. LGUs will be invited to such consultation to include the 14 basic sectors, human rights NGOs and other interest groups.

As mentioned earlier, the NEDA has committed itself to instituting the HRBA under its Thematic Plan for ICESCR. While the PHRC can very well institute policies and systems to make HRBA practice sustainable, the lack of continuous advocacy, information materials and documentation of HRBA practices in the country contribute to such limitations of HRBA practice in both the government and non-government sectors.

Of crucial importance to the NHRAP will be the development of appropriate tools for the desired rights-based design and implementation of the various programs, projects and activities identified under medium and annual targets of the eight thematic plans for 2009-2014.

In the immediate the PHRC is in the process of coordinating the finalization and integration of the NHRAP, and also, preparing for the area consultations. This will be followed by a multi-sectoral consultation upon the completion of the area consultations into the NHRAP Thematic Chapters under the charge of the lead agencies.

2. Institutional Strengthening

The only way to strengthen institutional arrangements on HRBA is to incorporate its continuous advocacy and training support in the budgets of the government agencies. As deduced from the case certain strategies would work in the replication and sustainability of HRBA. These strategies may urge the NEDA consider mainstreaming the HRBA into the country's development planning process under the charge of its operating unit coordinating the process formulation of the Medium Term Philippine Development Plan (MTPDP). In addition, the NEDA to assist the Department of Budget and Management (DBM) in incorporating and or mainstreaming of the HRBA into the processes and requirements of the Annual Budget Call.

Given the experience of the eight (8) lead agencies on HRBA in the NHRP, they could be encourage to apply the same approach to their respective agency planning and likewise, the CHRP could form a bureau that will advise government on HRBA as part of its advisory role. The CHRP should also engage in developing HRBA advocacy, training and case materials as reference for its continued application by both the government and non-government sectors.

3. Building HRBA Capacities

Building capacities on HRBA in the case of this project will entail a lot of resources, which would require the assistance of development partners. The lead agencies will have to go through specialized trainings and technical assistance on the application of the normative content especially in planning, budgeting, services delivery and budgeting that will help agencies achieve the progressive application of human rights standards.

4. Replicability of HRBA practice

HRBA in the NHRAP formulation is highly replicable at the regional level through the Regional Development Councils (RDCs). However, the delays in the issuance of a presidential directive to the RDCs on the formulation of the RHRAP impeded the expected replication.

The replication of the HRBA process should be thoroughly planned. It could be done either through mainstreaming the HRBA in country's development planning in totality or in the formulation of the successor NHRAP in 2015 -2019.

An inter-agency working group composed of the NEDA (as the central planning agency); DBM and the eight lead agencies of the PHRC could be formed to formulate guidelines for the mainstreaming of HRBA in the country's development planning. The CHRP may be invited, from time to time, in the deliberation of the committee on advisory capacity.

This case best exemplifies the HRBA conceptual framework and operational definition. As practiced in this case, all the core elements of HRBA were operationalized through the use of HRBA resource persons, tools, orientation, training and continuous dialogue both at the policy and program levels.

CHAPTER 9

SUMMARY, CONCLUSIONS, FUTURE DIRECTIONS, RECOMMENDATIONS AND IMPLICATIONS

This chapter integrates the results of the study focused on its contributions to the efficacy of the use of the approach and to the discipline of public administration and governance. Conclusions are inferred with respect to the validity of the conceptual and operational frameworks that would warrant its application for the institutionalization, sustainability and replicability of the approach.

A. Summary of Case Analysis

This section presents a summative analysis of the empirical findings of the study through a cross-case analysis. However, this portion of the analysis does not seek to undermine the value of each of the case studies conducted.. Across all the cases, the following set of observations was drawn from the sample cases. Based on empirical findings, this study observes and postulates that HRBA:

- Adds the practice of fundamental human rights principles in development and governance interventions;
- Adds force to the implementation of human rights standards through implementation of state obligations and human entitlements that serve to strengthen accountability and empowerment;
- Adds value as method and tool that enhance existing processes of development or governance projects or initiatives;
- Adds to evidence-based generation of HRBA success Indicators through the actual outputs and outcomes

Table 8 below shows the empirical evidence under each of the four observations, which are referred to, as the parameters for successful mainstreaming of HRBA into development and governance initiatives.

**TABLE 8 – COMPARATIVE ANALYSIS OF CASES
BY EMPIRICAL EVIDENCE GATHERED**

Criteria	Case 1	Case 2	Case 3	Case 4	Case 5	Case 6
Adds the practice of fundamental human rights principles in development and governance interventions	• Attention to Vulnerable Groups • Accountability • People's Participation • Empowerment • Equity • Universality	• Accountability • Empowerment • Participation • Transparency • Non-Discrimination • Attention to Vulnerable Groups • Universality • Equality • Indivisibility • Interrelatedness • Interdependence	• Accountability • Universality • Transparency	• Empowerment • Participation • Universality • Interrelatedness	• People's participation • Empowerment • Accountability • Transparency • Non-discreditation	• Accountability • Empowerment • Participation • Transparency • Non-Discrimination • Attention to Vulnerable Groups • Universality • Equality • Indivisibility • Interrelatedness • Interdependence
Adds force in the implementation of state obligations and human entitlements that serve to strengthen accountability and empowerment	• Current labor laws reviewed vis-à-vis international HR & Labor Standards • Application of HR & labor standards to sub-sectors of informal sector	• HR standards applied to MDGs • Community-level planning of activities to implement rights-based MDGs • Barangay/City Officials and local agencies made to commit to deliver HR compliant services	• Applied 3 levels of HR Obligations: respect, protect & fulfill • Accountable government agencies matched RTF Indicators with their respective mandates	• Applied 3 levels of HR obligations in the design of the Change management Guide • Accountability of reorganizing government agencies defined	• Applied respect and protect levels of HR obligations in community issues & problems raised • Invoked rights entitlements in community actions • Exercise of Individual Rights and duties towards the community	• Applied 3 levels of obligations in NHRAP plan through policies, programs and projects identified • Concluding observations under each Treaty regarding State failures used as basis for planning
Adds value to existing processes of development or	• Called attention of government authorities/agencies on	• City & barangay officials given HRBA orientation &	• Mainstreamed HRBA to indicators setting on	• Used HR standards & principles in government	• HR mainstreamed into public journalism	• Used HRBA in cluster or sector planning • Used HRBA

Criteria	Case 1	Case 2	Case 3	Case 4	Case 5	Case 6
governance methods and tools	applicable HR standards to informal sector	training Barangay planning and resolution used to adopt rights-based MDGs	Right to Food (RTF)	reorganization at agency level	and local governance	in sectoral and regional consultations Applied HR principles & standards in NHRAP content & process
Adds to evidence-based generation of HRBA Success Indicators through the actual outputs and outcomes	- Targeted and mobilized participation of sub-sectors of informal sectors both at national & regional levels - Drawn rights-based legislative proposal for the Informal Sector	- Massive people's participation at barangay level - Vulnerable sectors at barangay level identified and made to participate - Political will of the city/barangay officials to implement rights-based MDGS	Converted present RTF indicators to rights-based using normative criteria	Provided HR safeguard for due process in reorganization, remedies for grievances & alternative livelihood	Agreements and commitments that bear HR duties & responsibilities of local government agencies	- Needs of Sectors linked to HR - Legislative, Administrative & program measures formulated based on HR standards

The discussions below summarize the various empirical findings and observations discovered by the study under each HRBA parameter:

1. Adds the practice of fundamental human rights principles in development and governance interventions

The first contribution of this study relates to the empirical based-added value of human rights principles to both development and governance interventions. While the six (6) cases exemplify in varying degrees the application of the fourteen (14) human rights principles, the cross-case analysis delves on at least three clustering of human rights principles, which were predominantly applied. However, it does not preclude the mention of other related human rights principles that were found evident in the findings of the six (6) cases. These clusters of human rights principles are:

- a) Attention to Vulnerable Groups and People's Participation, which are inherent to the content of good and democratic governance;
- b) Accountability, Non-discrimination and Equality, which are inherent to the content of human rights; and
- c) Empowerment as the overarching human rights principles that guide both development and governance.

In terms of governance, the most dominant use of the principles of accountability based on human rights obligations and empowerment based on human entitlements, were observed in all the cases. In terms of development, the principles of attention to vulnerable groups, people's participation, were likewise demonstrated by the cases.

**TABLE 9 – OPERATIONALIZATION OF HR PRINCIPLES
PER PROJECT STAGE**

CASES	OPERALIZATION OF HR PRINCIPLES		
	ASSESSMENT	DESIGNING OF DEVELOPMENT STRATEGY AND PROGRAM	IMPLEMENTATION OF CAPACITY BUILDING STRATEGIES
CASE 1 – LEGAL EMPOWERMENT OF THE POOR	• Attention to Vulnerable Groups	• Accountability • Equity • Empowerment	• Attention to Vulnerable Groups • Empowerment
CASE 2 – DEVELOPING SN. FERNANDO CITY AS A RESOURCE CITY FOR BEST PRACTICE IN RIGHTS-BASED LOCALIZATION OF THE MILLENNIUM DEVELOPMENT GOALS	• Attention to Vulnerable Groups	• Accountability • Equity • Universality • Indivisibility and Interrelatedness	• Empowerment
CASE 3 RIGHT TO FOOD PROJECT	• Attention to Vulnerable Group	• Accountability • Empowerment	
CASE 4 IMPLEMENTING E.O. 366: A PRACTICAL GUIDE	• Participation	• Accountability • Equity • Empowerment	• Empowerment

**FOR MANAGING
THE CHANGE
PROCESSES OF
THE
RATIONALIZATION
PROGRAM**

CASE 5

- Attention to Vulnerable Groups
- Accountability
- Equity
- Empowerment

**MEDIA-
COMMUNITY
ACTION ON
MAINSTREAMING
HRBA AT THE
LOCAL LEVEL
DEVELOPMENT**

CASE 6

- Accountability
- Empowerment
- Attention to Vulnerable Groups
- Universality
- Interdependence and interrelatedness of rights
- Accountability
- Not at this stage yet

**NATIONAL HUMAN
RIGHTS ACTION
PLANNING**

a). Attention to Vulnerable Groups and People's Participation

As part of this contribution, the study also proved that HRBA adds to the practice of human rights principles that led to the more effective identification of vulnerable sectors, whose rights need protection. These principles were heavily observed in the assessment and planning stages of Cases 1, 2, and 5. In other cases, these principles were complied with through representation. At the onset, the six project cases made a careful identification of the various vulnerable and disadvantaged groups who experience major obstacles in the realization of their rights impeding the effectiveness of the development objectives of the projects. Across all the cases this principle was the primary target that is expected to correct inequalities in opportunities among the sectors of society. In Case 1, the vulnerable sectors among the informal sectors participated actively in assessing the conditions of the sector, review of proposed policy papers, drafting of the Magna Carta, which fleshed out their development needs and poverty conditions vis-a-vis the rights pertaining to their access to justice, property rights, social justice and human rights and access to legal mechanisms. Case 2 also underscored the role of the vulnerable sectors in local communities. They were similarly engaged in identifying their development needs along the eight (8) MDGs but applying the relevant human rights pertaining to each of the MDG goals. Case 3 was designed for the poor and hungry, although there was no indication that they were involved in the process of identifying indicators on the right to food. Case 4 gave focus to the plight of public workers as the identified vulnerable sector in the government's rationalization program. More extensive involvement of the poor local communities were actively seen in three priority community issues on health, education and food security, citizen's voice in issues requiring governance transparency and accountability in specific areas of local governance. With reference to Case 6 more in-depth study on the condition of the vulnerable sectors were considered identification of specific human rights issues that affect the vulnerable and disadvantaged sector using as

guide, the concluding comments of the treaty bodies for the implementation of the international human rights treaties.

b). Accountability, Non-Discrimination and Equality in the Planning and implementation of the projects

Again, the inclusiveness of the practice of human rights principles that are governance linked, was made possible through HRBA. Premised on these principles the six (6) cases have made significant applications particularly in the planning and implementation of the projects. The inclusiveness of the participation of the vulnerable sectors and sub-sectors guaranteed non-discrimination in the project initiatives. Through the HRBA, accountabilities of government agencies in the project were established, to include commitment to specific performance targets. The most common findings across all the cases on the operationalization of these principles point to creation of ample avenues both at the national and local level to exact the accountabilities of both the government as duty-bearers and the individuals and communities as claimholders. Specific to Case 1, accountabilities among the participating government agencies were exacted in the identification and designing of policy measures and in the validation of these measures across the country.. A more pronounced demonstration of accountability was displayed in Case 2. The local government assumed accountability over capacitating the entire city community that prepared them to undertake a Rights-Based MDG Localization Planning.

Another strategy for exacting accountabilities among government agencies was demonstrated in Case 3 on the basis of their respective mandates. These accountabilities were effectively mapped out. While Case 4 illustrates the initiative of the DBM to engage extensively the various lead agencies towards capacitating them for more accountable change management in their respective organizations. *Case 5 demonstrates a more unique application of the principles of accountability and non-discrimination which resulted from negotiations and public actions among contending stakeholders* A two-pronged design was used to establish accountability, which was not performed voluntarily by both government and non-state actors as duty-bearers, but realized through social pressure created by a media-community engagement. In Case 6, negotiation and persuasion characterized the manner by which accountabilities were exacted from the government agencies. On the basis of each of the human rights issues identified, specific obligations were matched together with an identification of strategic objectives and specific indicators to which a particular agency or agencies should be made accountable to deliver. No performance targets corresponding to each performance indicators were set without prior consultation with concerned agencies as part of the operationalization of the accountability principle. The process was long and tedious but the accountabilities were clearly defined.

c) Empowerment as an overarching principle of both development and governance

Across all the cases, this principle was predominantly observed and applied in different ways but bearing human rights entitlements as the basis.. Cases 1 and 2 used the principle of empowerment both in policy planning and programming. Case 1 illustrates the empowerment principle both as a social and legal empowering process of engaging participatory and bottom up approach to addressing issues of poverty and powerless in the sector. It surfaced the issues on disempowerment such as inequity, inequality and unjust distribution of wealth and resources, as well as the factors that discriminate and emasculate the poor.¹⁵⁶ Case 2 demonstrates use of the empowerment principle at various stages of MDG programming at the local level. Through the engagement of the community empowerment process in problem solving and community planning for the MDGs. The same is true with Case 5 that demonstrates a grassroots-based empowerment in local communities involving identification of different reform issues on development, governance and peace and molding of public opinion and solution to these reform issues and concerns with diverse media intervention strategies.

Cases 4 and 6 have laid out the policy framework and implementation of guidelines for empowering vulnerable sectors. In Case 4, the empowerment principle was observed through the provision of alternative programs and mechanisms of redress of affected employees of the rationalization program of the government.¹⁵⁷ While Case 6 exemplifies the total engagement of each of the vulnerable groups under each of the human rights issues identified, objectives established, performance targets and measures identified to improve a given human rights condition. The planning template and process provided ample opportunities for such engagement of the vulnerable sectors at every stage of the planning process. The tracking guide, which was presented in the earlier section, warranted the attainment of empowerment among the vulnerable sectors. The tracking guide provided assurance for the empowerment of both the duty-bearers and claimholders who were identified to actively participate in a 36 Steps-Tracking Guide issued by the PHRC as guide to organizers, planners and mobilizers for the NHRAP and RHRAP formulation.

2. Adds force to the implementation of human rights standards through implementation of state obligations and human entitlements that serve to strengthen accountability and empowerment

The second contribution of the study is that of showing empirical evidence that both accountability and empowerment could be strengthened through a treaty-based implementation of human rights obligations and entitlements. The use of the HRBA requires both the implementation of State obligations and human rights entitlements as the key approach to defining both accountability and empowerment.. The six instrumental cases illustrate some concrete examples on how HRBA has given force to the identification of relevant rights of the vulnerable sectors that are affected through the careful identification of State Obligations and human rights entitlements¹⁵⁸. All the six cases have in fact, successfully analyzed development needs of their respective

communities and target vulnerable groups in terms of identifying the applicable human rights as guaranteed under the relevant treaties as discussed in each of the cases. .

Likewise, corresponding to each right, the accountable agencies and their responsibilities have been identified. The same thing with the network of vulnerable and marginalized groups that are affected by particular rights that were matched with their development needs. Table 10 shows such analysis that was used to design the strategies and programs of concerned duty-bearers and claimholders that were involved in the project cases.

TABLE 10 – APPLICATION OF RELEVANT RIGHTS AND ACCOUNTABILITIES

CASE 1 –	CASE 2 –	CASE 3	CASE 4	CASE 5	CASE 6
LEGAL EMPOWERMENT OF THE POOR	DEVELOPING SN. FERNANDO CITY AS A RESOURCE CITY	RIGHT TO FOOD PROJECT	IMPLEMENTING E.O. 366: A PRACTICAL GUIDE FOR MANAGING CHANGE PROCESSES	MEDIA-COMMUNITY ACTION ON MAINSTREAMING HRBA AT THE LOCAL LEVEL DEVELOPMENT	NATIONAL HUMAN RIGHTS ACTION PLANNING
• Access to justice and rule of law; • Property rights, • Rights to Work • Right to Social Security	• Right to Work • Right to Education • Right to Health • Right to Food • Right to ENV. • Right to Water	• Right to Food as to availability , accessibility, adequacy, etc	• Right to Work • Right to Remedies	• Right to Health • Right to food • Right to Services • Right to Good Governance	All rights guaranteed under the 8 International Human Rights Instruments
ACCOUNTABLE AGENCIES –DUTY-BEARERS					
• Government financial institutions • DSWD-SEAK • DOLE • DTI • LGUS	• City/Barangay Councils • DA • DSWD/CSWD • DOH • DepED • LSB • CHRP • CIVIC GROUPS • RELIGIOUS • ETC.	• NEDA • DTI-BTR CP • DAR • DA • NFA • NFAC	• OP; • DA • DENR • DOH • DFA • DOLE; • DILG; • DPWH • DTI • NEDA • DOTC • HUDCC • CHED • PIA • NCDP • NIA • NPO • NSO • Etc.	• LGUs • DENR • DepED • Devolved agencies DOH, DSWD	• All branches of government, executive agencies, LGUs and devolved agencies

CASE 1 –	CASE 2 –	CASE 3	CASE 4	CASE 5	CASE 6
LEGAL EMPOWERMENT OF THE POOR	DEVELOPING SN. FERNANDO CITY AS A RESOURCE CITY	RIGHT TO FOOD PROJECT	IMPLEMENTING E.O. 366: A PRACTICAL GUIDE FOR MANAGING CHANGE PROCESSES	MEDIA-COMMUNITY ACTION ON MAINSTREAMING HRBA AT THE LOCAL LEVEL DEVELOPMENT	NATIONAL HUMAN RIGHTS ACTION PLANNING

MARGINALIZED GROUPS – CLAIMHOLDERS

- | | | | | | |
|---|--|---|---|---|---|
| <ul style="list-style-type: none"> • Micro-entrepreneurs¹⁵⁹ • Contracted/Self-Employed¹⁶⁰ | <ul style="list-style-type: none"> • Poor children • Youth, • Women • Elderly, • Persons with disability • Fisherfolks • Indigenous peoples • Squatters • Informal sector | <ul style="list-style-type: none"> • ALL ESPECIALLY THE POOR | <ul style="list-style-type: none"> • Government workers affected by reorganization | <ul style="list-style-type: none"> • Local communities | <ul style="list-style-type: none"> • All vulnerable sectors e.g. women, children, urban poor, indigenous peoples, persons with disabilities, etc |
|---|--|---|---|---|---|

Specifically, Cases 1, 2 and 6 illustrate, among others, the application of human rights standards postulated under Article 7 of the International Covenant on Economic Social and Cultural Rights (ICESCR) on the right of everyone to the enjoyment of just and favorable conditions of work, as well as, the related provisions of Article 9 of the same Covenant on social security to include social insurance. Using domestic labor laws, a rights-based view was also used to assess the level of application of labor rights, labor standards and social protection to the informal sector. Specifically, the provisions of the Philippine Labor Code do not apply equally to Filipino workers. Social justice and human rights are the more apt approach to effectively strengthen the rights of the informal sector to labor and social protection. To this end, wide ranging actions and tasks involving both obligations of conduct and results from government were established in the proposed policies to enable it to respect, protect and fulfill its obligations under the various international human rights treaties it ratified. Case 2 exemplifies the application of the human rights standards provided for under the relevant provisions of the ICESCR in the localization of specific MDGS. The following sample represents one of the MDGs showing the application of human rights standards and state obligations. For low education, corresponding state obligation was pinpointed as the provision of free education for both elementary¹⁶¹ and high school.¹⁶² Duty-bearers were also identified. For unemployment, the local populace from both the urban and rural communities of the

city was recognized to have been affected by this condition. The right to work¹⁶³ was matched with this specific problem. The duty-bearers and their obligations and accountabilities to make available the necessary resources and programs¹⁶⁴ For low quality of life, the right to adequate standard of living, which includes the rights to adequate food, adequate housing and adequate water as provided in Article 11(1) were identified in the MDG planning.. As with other cases the duty-bearers and claimholders were identified with the corresponding duties and responsibilities to take up some policies, programs and public action on these concerns.¹⁶⁵ A more straight forward mapping of human rights obligations and accountabilities were done vis-à-vis the agency mandates in Case 3.corresponding to each level of human rights obligations to respect, protect and fulfill the right to food.

Case 5 was a bit different in exacting the obligations of both the government agencies and the non-state private actors. It proved that concerned government agencies or duty-bearers would not easily recognize at the onset, their obligations. As illustrated in Case 5, there were instances whereby community-based actions exacted accountability of government to perform its obligations. Under Case 6, the different treaty-based plans oblige agencies and organizations to always refer to the specific provisions of the international human rights treaties as well as relevant domestic laws that would be relevant to the design and implementation of programs, project and activities. Although, the case up to this point of writing has not been completed, the eight (8) thematic plans produced by the different thematic clusters considered human rights standards as criteria and standards of different development programs, activities and projects. Focusing on Case 6, HRBA paved the way for identifying existing domestic laws that needed review and harmonizing with applicable human rights treaties and the corresponding obligations of public institutions based on their respective mandates.

3 Adds value as method and tool that enhance existing processes of development or governance projects or initiatives;

The third contribution of this study is that HRBA has added value as the approach provides alternative methods and tools that worked compatibly with the different processes of development and government interventions. This part of the analysis demonstrates how the HRBA is used as method and tool in the project cases. The assumption is that HRBA is not used as a substitute to existing processes of development and governance but certainly serve as an enabling method or tool to mainstream human rights principles and standards into existing development and governance processes or interventions. Below is a matrix showing an inventory list of HRBA methods and tools that were mainstreamed into the existing processes of selected development and governance projects.

TABLE 11 – HRBA METHODS AND TOOLS APPLIED

CASES	DEVELOPMENT & GOVERNANCE PROCESSES			
	ASSESSMENT AND ANALYSIS	DESIGNING OF DEVELOPMENT STRATEGY AND PROGRAM	IMPLEMENTATION	MONITORING AND EVALUATION
CASE 1 – LEGAL EMPOWERMENT OF THE POOR	• Conduct of Human Rights Education and Training; • HR Situation Analysis • Hr Stakeholder's Analysis • HR Gaps Analysis • Network and constituency development; • Development of rights-Based four thematic papers	• Review and advocacy for the adoption of human rights-based remedies and mechanisms • Strengthening of citizen groups, multi-stakeholders networks and advisory bodies	• Consultation with informal sector and its sub-sectors in regional consultations	• Did not indicate concrete monitoring and evaluation activities
CASE 2 – DEVELOPING SN. FERNANDO CITY AS A RESOURCE CITY FOR BEST PRACTICE IN RIGHTS-BASED LOCALIZATION OF THE MILLENNIUM DEVELOPMENT GOALS	• HR situation analysis • Linking HR and MDGs • Stakeholder's Analysis • Gaps Analysis • Rights-Based Planning	• Setting up of City-Based Steering Committee • Conduct of Orientation of duty-bearers and claimholders in all barangays • Piloting of HRBA Orientation • Rights-based Barangay MDG Planning • Manualization of the Rights-Based MDG Planning	• Passage of Ordinance for its legitimate implementation and use of local funding resources	• Use of human rights indicators under each of the 8 MDGs
CASE 3	• Stakeholder's Mapping	• HR Indicators' Setting vis-a-vis	• Mapping of obligations on right	• Solicitation of agency

CASES	DEVELOPMENT & GOVERNANCE PROCESSES			
	ASSESSMENT AND ANALYSIS	DESIGNING OF DEVELOPMENT STRATEGY AND PROGRAM	IMPLEMENTATION	MONITORING AND EVALUATION
RIGHT TO FOOD PROJECT		HR Normative Content	to food vis-à-vis agency mandates	commitments vis-à-vis each normative content of the right to food
CASE 4 IMPLEMENTING E.O. 366: A PRACTICAL GUIDE FOR MANAGING THE CHANGE PROCESSES OF THE RATIONALIZATION PROGRAM	• Rights-Based Review of Guidebook	• Orientation • Participatory design and planning of the Guidebook • Formulation of the Guidebook Rights=-based Review of the Guidebooks	• Consultation with Human Rights Expert on the draft output	• Did not include monitoring
CASE 5 MEDIA-COMMUNITY ACTION ON MAINSTREAMING HRBA AT THE LOCAL LEVEL DEVELOPMENT	• HR Situation Analysis • Stakeholder's Analysis Community-Based Planning	• Conduct of HR Orientation and Forum • Organization and Networking • Mainstreaming of HR in Public Journalism • Tapping of media Programs and network Media and community engagement activities	• Media network and tools for creating community awareness and generating concerted actions	
CASE 6 – national Human Rights Action Planning	• HR Situation Analysis fthrough the Baseline Studies • HR Gaps Analysis based on International Human Rights Instruments • Consultation Guide • Guide to conducting Baseline Studies	• Creation of Task Force with sectoral representations • Formation of 8 thematic clusters composed of both GOs and NGOs • Orientation on human rights action planning and international human rights instruments	• Stakeholders' Analysis and Capacity Building Plan • Tracking Guide • Formation of implementing Teams per program/project • Institutional Arrangements • Funding mechanism for sustainability	• Setting of performance Objectives • Setting of performance Indicators and Medium and Annual Targets • Identification of Accountable Agencies per Indicator • Monitoring & Evaluation guide

From the above table, it could be deduced that all the sample cases have applied almost common methods and tools on HRBA in customized form from the assessment, designing and implementation stages of the sample development and governance projects. However, as could be generated from the above table, only two (2) had developed tools to ensure sustainability of the HRBA down to implementation and monitoring stages. Some of these common tools and techniques are: a) the human rights situation analysis that linked development needs to rights; b) stakeholders' analysis whereby duty-bearers and claimholders together with their accountabilities, duties and responsibilities were established in the process of HRBA c) rights-based orientation and training; d) rights-based policy advocacies; e) rights-based designs for consultations and conferences; issuance of rights based tracking guide for ensuring human rights content and process, among others. These HRBA methods and tools have greatly contributed to the effectiveness of the project itself, as well as the effectiveness of the governance actors involved in the projects. The process characterize good governance, which is that of being participatory, transparent, accountable and responsive, that were possibly through the use of HRBA methods and tools.

4. Adds to evidence-based generation of HRBA Success Indicators

The fourth major contribution of this study is that of totally demystifying the approach by drawing some concrete HRBA success indicators through the sample cases. Based on the showings of the project cases, certain HRBA success indicators were identified, which appear to approximate the success of the application of the approach: Table 12 reveals the project specific success indicators of HRBA. However, as could be inferred from such table some indicators are common across the cases.

As to human rights content, these common indicators are: the extent to which participation was generated at every stage of the project, the level at which the agencies would be willing to accept accountabilities in the planning and programming processes adequacy of matching needs with rights, to include the applicable standards, and the extent at which the vulnerable and disadvantaged sectors would be willing to participate or even risk in asserting for their human rights entitlements. among others.

As to the process of mainstreaming human rights through HRBA, the most common indicators would point to the enabling skills of the different governance actors such as, but not limited to the following: comprehending and translating the human rights principles and standards in practical terms that would apply, say for instance in the mandates of the agencies; translating into constructive public action the assertion of the vulnerable and disadvantaged sectors of their human rights entitlements and the levels of collaboration, partnership and cooperation at which the networks of government agencies, private non-state actors and civil society groups would be willing to forge to provide solution to human rights issues and concerns that they face.

TABLE 12: EVIDENCE-BASED HRBA INDICATORS

CASE NO.1 –	CASE NO. 2 –	CASE NO. 3	CASE NO. 4	CASE NO. 5	CASE NO. 6
LEGAL EMPOWERMENT OF THE POOR	DEVELOPING SN. FERNANDO CITY AS A RESOURCE CITY	RIGHT TO FOOD PROJECT	IMPLEMENTING E.O. 366: A PRACTICAL GUIDE FOR MANAGING THE CHANGE PROCESSES	MEDIA-COMMUNITY ACTION ON MAINSTREAMING HRBA AT THE LOCAL LEVEL DEVELOPMENT	NATIONAL HUMAN RIGHTS ACTION PLANNING
<i>HRBA Mainstreaming or Intervention Areas</i>					
HRBA in Policy Development	HRBA in Local Governance & Local Development	HRBA in Developing Indicators Setting	HRBA in Capacitating Governance Actors	HRBA in Community Empowerment	HRBA in National Planning

HRBA Success Indicators

- The degree to which human rights principles and standards have been applied in the content of the outputs, in this case the four (4) thematic policy papers and the draft legislation for the informal sector;
- The degree to which accountability of local officials and agencies is expressly identified and matched with specific needs and problems of the local residents; and
- Adequacy of the matching of the accountabilities of agencies with the identified Right to Food indicators.
- The degree to which affected agencies were made to participated in the consultation process and decision making during the formulation and design of the Guidebook;
- The degree to which human entitlements are applied to community issues
- The extent to which identified needs are translated or matched with specific human rights
- The degree to which the claimholders expressing their human rights views on the decision making on the contents of the policy outputs;
- The extent to which the application of HRBA is legitimized in terms of issuance of local ordinances, provision of budgetary support and led by local officials.
- Adequacy of the application of the normative content on the Right to Food both at the output and outcome levels.
- The recognition and respect given by the DBM to the rights of the affected employees of the different agencies as claimholders of a rights-based change management.
- The extent to which agreements and reconciliations are achieved between the government actors and community actors in responding to economic, social and
- The extent to which duty-bearers commit to certain human rights targets and performance indicators, programs and projects and

CASE NO.1 –	CASE NO. 2 –	CASE NO. 3	CASE NO. 4	CASE NO. 5	CASE NO. 6
LEGAL EMPOWERMENT OF THE POOR	DEVELOPING SN. FERNANDO CITY AS A RESOURCE CITY	RIGHT TO FOOD PROJECT	IMPLEMENTING E.O. 366: A PRACTICAL GUIDE FOR MANAGING THE CHANGE PROCESSES	MEDIA-COMMUNITY ACTION ON MAINSTREAMING HRBA AT THE LOCAL LEVEL DEVELOPMENT	NATIONAL HUMAN RIGHTS ACTION PLANNING
<i>HRBA Mainstreaming or Intervention Areas</i>					
HRBA in Policy Development	HRBA in Local Governance & Local Development	HRBA in Developing Indicators Setting	HRBA in Capacitating Governance Actors	HRBA in Community Empowerment	HRBA in National Planning
				political problems using human rights perspectives and standards	corresponding resource requirements;
- The degree to which the relevant State Obligations contained in the pertinent international treaty and domestic laws are expressly incorporated into the policy outputs on the informal sector - The extent to which human rights issues and concerns of sub-sectors of the informal sectors are reflected in the policy papers and magna carta	- The extent to which human rights awareness and consciousness of the local residents is raised; - The extent to which applicable and relevant human rights normative content or standards is applied in each of the eight (8) MDGs;	- The degree to which progressive realization of human rights standards would be achieved through the indicators - The extent to which civil society was involved in human rights indicators setting	- The observance of and compliance with State Obligations in managing the implementation of the Reorganization Plan; - The provision of alternative livelihood scheme and counseling services for affected employees of the government; and	- The extent to which human rights were secured in the community empowerment process - The extent to which assertion of rights are reflected in community action, position papers	- The extent and degree of participatory consultation with vulnerable groups especially on human rights issues that affect them - The level of agreement and reconciliation of duty-bearers and claimholders on their perspectives of certain human rights issues and how to

CASE NO.1 –	CASE NO. 2 –	CASE NO. 3	CASE NO. 4	CASE NO. 5	CASE NO. 6
LEGAL EMPOWERMENT OF THE POOR	DEVELOPING SN. FERNANDO CITY AS A RESOURCE CITY	RIGHT TO FOOD PROJECT	IMPLEMENTING E.O. 366: A PRACTICAL GUIDE FOR MANAGING THE CHANGE PROCESSES	MEDIA-COMMUNITY ACTION ON MAINSTREAMING HRBA AT THE LOCAL LEVEL DEVELOPMENT	NATIONAL HUMAN RIGHTS ACTION PLANNING
<i>HRBA Mainstreaming or Intervention Areas</i>					
HRBA in Policy Development	HRBA in Local Governance & Local Development	HRBA in Developing Indicators Setting	HRBA in Capacitating Governance Actors	HRBA in Community Empowerment	HRBA in National Planning
- The degree to which government resources are matched with human rights issues and concerns of the informal sector - The extent to reference is made on the relevant human right treaties and laws in the formulation of policies and other measures	- The degree to which HRBA could be applied in annual local planning as a means to ensure progressive improvement of the quality of life of local residents - The magnitude of consultation instituted at the community level using the HRBA as framework and process using the available standard tools	The extent to which commitments were made by concerned agencies on specific indicators relevant to their respective mandates	The provision of effective grievance mechanisms and remedies in case of violation of rights in the process of implementing the Reorganization Plan.	- Rights focused legislative, administrative and program measures with accountable duty-bearers and claimholders - The level of commitment of the national leadership and agency commitments to allocate resources for the implementation of rights-based policy and program measures	HRBA in National Planning resolve them;

B. Comparative Case Analysis Based on Institutional Parameters

Across all the cases, HRBA was applied in different modalities as borne by the interplay of a number of parameters that influenced the processes and results of the project cases either at the output or outcome level or both as far as Case 5 is involved, as shown in the following table:

TABLE 13 – GENERAL COMPARATIVE ANALYSIS OF CASES

Parameters	Case 1	Case 2	Case 3	Case 4	Case 5	Case 6
Type of Proponent	HR -NGO	HR -Agency	HR Agency	Non-HR Agency	Non-HR NGO	HR Committee
Policy Support	Purely NGO initiative	City/Barangay Resolutions	Authorized by Commission-En Banc	Authorized by DBM and CSC	Purely NGO initiative	Authorized under AO 163
Orientation & Training of Proponent	Writers and Consultants all human rights practitioners	City and Barangay-based HRBA Orientation	Trained proponent but not the participating agencies, which were given HRBA orientation only	Focal person from DBM and DAP trained on HRBA	CCJD and Media oriented and trained on HRBA	PHRC trained on HRBA
Information Materials	Project-produced HR materials	Project-produced HR materials	CHRP–HR materials	CHRP –HR materials	CHRP HR materials	PHRC Developed Guidebooks On-line resources CHRP HR materials
Participation ¹⁶⁶	Information, consulting and deciding together	Informing and consulting,	Informing and consulting	Informing , consulting and deciding together	Informing, consulting, deciding together, acting together and supporting	Informing, consulting and supporting

Type of organization. As may be inferred from this table, an agency or non-government organization may or may not be a human rights organization to be able to apply HRBA. Although, an agency/organization with human rights mandate is an advantage, it is not a

guarantee that it could adequately apply HRBA. This statement is supported by findings that while CHRP (Case 3) is purely an human rights organization, its perspective to converge and improve development indicators into human rights-compliant indicators did not materialize. The same thing with ESCR, Asia, which utilized a panel of advisors and experts along the four focus areas of legal empowerment to adequately review and apply both international and domestic standards on human rights in the production of its policy papers and draft Magna Carta. In Case 2, also under the CHRP, the role played by the Regional Director, who is an expert by herself made the application of HRBA more effectively for MDG localization planning. In Case 5, CCJD may not be an human rights organization but the very nature of its work on public journalism that espouses right to information, made it possible for them to relate easily to HRBA process. This only goes to show that HRBA mainstreaming is not an easy process even among human rights organizations. The approach demands comprehensive and thorough understanding and appreciation of human rights standards found in the various treaties. This further poses the challenge of building capabilities, mentoring and coaching among HRBA practitioners in order to enable organizations to apply the approach. This applies to either human rights or non-human rights organization.

Policy Support. As revealed by the study, policy support proved to be a “driver” for HRBA. This is true in a number of cases as follows: Case 2 involving MDG localization which was triggered by city resolutions and sustained by barangay resolutions; Case 6 is based on Administrative Order 163, which prescribed the use of HRBA in national action planning and strengthened by AO 249 which was issued midstream that provided specific directives to agencies to implement human rights standards in policies, programs and operation of their respective mandates; Case 3 through authorization of the Commission en banc and Case 4 as authorized by the DBM and CSC, which had made previous commitments on HRBA through the trainings conducted by the CHRP. Again HRBA mainstreaming process could not be attributed to mere compliance. As these four cases reveal directives and issuance would not suffice. This only proves that HRBA could not be undermined as to mean purely facilitative of human rights compliance. Public institutions have traditional processes, which are sometimes too difficult to penetrate for HRBA mainstreaming. Policy support could only trigger compliance with the approach but does not warrant effective implementation of the approach.

Orientation and Training. Although at varying degrees of exposures on HRBA, all proponents of the project cases underwent orientation and training on the approach, all under the support and assistance of the GOP-UNDP Governance Portfolio. These orientation and training mattered in leveling off understanding on how to apply the HRBA in the different projects covering all the six cases. While these training more or less carry the basic elements of HRBA, the capacities of the proponents and their project participants to understand its application still differed as borne by the quality of outputs and/or outcomes produced by the cases. Thus, gauging by the results of the study, the orientation and training given by the UNDP should not be considered the ultimate intervention to truly be effective in HRBA. Government institutions accountable for the

continuous application of the approach must collaborate to effect developmental and ladderized training on HRBA.

Information Materials. Except for Case 6, all proponents in the rest of the cases complained of dearth in HRBA materials that could have provided them with inputs to nurture the application of the approach in the projects. Although, ESCR Asia (Case 1) exerted effort to produce its own materials in popular form, CHRP Region 1 (Case 2) also expended a portion of its project funds to produce HRBA materials at the local level. The same thing was done by PHRC (Case 6) through UNDP funding assistance. By whatever means these proponents produced their HRBA materials, they still expressed the lack of adequate HRBA materials, which they could replicate and disseminate for use of their respective constituencies and which they expected to come from the CHRP. This is one acute concern that must be addressed, if only to sustain the application of the approach. As revealed by the study, there could be many modalities of HRBA, which means that modalities could be unlimited. Therefore, all HRBA practitioners should be in the business of developing and designing HRBA materials that would suit their particular conditions and circumstances. As gauged by the result of the study, CHRP may not be the institution that could shepherd this process. Further studies could be done to test whether more HRBA practitioners and experts that could produce appropriate HRBA materials could emerge from among development workers than human rights workers.

Participation. This is one parameter wherein all the cases have proven some degree of strength. As defined internationally and adopted in this study, participation refers to the modes of conduct in the pursuit of development by relevant stakeholders and actors wherein stakeholders participate at all level of economic, social, and political decision making; engage in informed decision; participate voluntarily, effectively and fully without threats and sanctions through the participation mechanisms made available.

Based on this understanding of what participation is the rightful stakeholders both duty-bearers and claimholders were identified and productively engaged. Gauging from the documents reviewed on the quality of participation of stakeholders, substantive and purposive interactions were achieved especially in varying levels of decision making involved in the project cases. As indicated in Table 13, different modalities of participation were observed. In Case 1 on Legal Empowerment of the Poor, participation of informal sectors/sub-sectors were noted at three levels: informing, consultation and deciding together made possible through the multi-level consultations and policy dialogues conducted both at the national and regional level. As compared with Case 2 on the Rights-Based MDG Localization, participation levels of barangay communities and local government units were observed at two levels during the consultative planning. These levels include informing and consulting only pending implementation of the local plans. The same levels of participation was observed in Case 3 on the Right to Food that of informing and consulting only but limited to participating government agencies and NGOs. The vulnerable sectors are not involved. Case 4 on Change Management for the

Rationalization Program, participation was seen only at the consulting level with those employee unions who participated in the crafting of the Guidebook. All levels of participation were practiced in Case 6 on Media and Community Action from informing, consulting, deciding together, acting together and supporting members of community networks and coalitions in public and policy dialogue, community assessment and planning, public action on human rights issues, and the like. Whereas participation levels in Case 6 on the NHRAP formulation exhibited informing, consulting and supporting among those vulnerable sectors that participated in the treaty-based planning.

C. Strategic Recommendations of Other Partners

For purposes of determining the prospective direction of HRBA particularly its further institutionalization, sustainability and replicability, the study also attempted to analyze the views and opinions of other stakeholders on the approach. From the perspective of other stakeholders they have the following comments and recommendations on the use of HRBA, which are examined vis-à-vis the real intent of the study:

1. CHRP as Implementing Partner of the UNDP

The CHRP gave valuable comments and recommendations both for the institutionalization of HRBA and sustaining the gains of the contributions of the sample HRBA cases. Based on the six (6) projects that applied HRBA, the CHRP gave different comments and suggestions. It recognized the need for a common training framework on the use of HRBA to be formulated and adopted subject to the principal responsibility and accountability of the duty bearers, on one hand and the human rights concerns/issues and vulnerability of the claim holders in order to achieve more synergy in HRBA advocacy. Also, it proposed the formulation of a participatory framework on HRBA that must include a mechanism and a process for monitoring and follow through of commitments made by the local government units in order to ensure performance of accountabilities over the rights secured by the communities. Such participatory framework, which could be further developed, must provide avenues for institutionalization of HRBA despite leadership changes in local government units. It also underscored the need to introduce to government on the use of HRBA in development planning, programming, monitoring and evaluation of development interventions and application of the HRBA in the localization of MDGs that are compliant with human rights standards. These comments while meritorious could be more meaningful and workable, if CHRP would examine its own institutional preparedness in terms of political will and technical competence to undertake shepherding of the approach, being a government institution with human rights mandate. CHRP has been into HRBA training since 2004 and up to this time, it has not systematically produced a training program on HRBA that would guarantee its institutionalization. Of course, there is a need to look at both the supply and demand for HRBA training. CHRP has not improved on its HRBA training for the past six years and on the part of the government, it has not also committed political will and resources to implement HRBA in the entire government machinery and in the entire civil society.

Regarding the sustainability and replicability of the approach, the CHRP expressed some concern relative to the lack of adequate resources to support HRBA training, research and conduct of studies on best practices of HRBA. It also recognized its role as expert/practitioner in shepherding the wider practice of HRBA by government and civil society. Specifically, the CHRP should take a more proactive stance as a catalyst in the wider practice of HRBA by government and civil society. It should develop its own expertise from within the organization from the top management to the technical staff members. It should also prioritize trainings of HRBA with the end view of having a core set of HRBA experts from both the government and civil society to include the academe. It also should shepherd the publication of HRBA knowledge products for dissemination and reference purposes, with high degree of quality control so as to warrant the desired sustainability of the approach in the country.

2. NEDA as Representative of the GOP in the Governance Portfolio

Despite the fact that NEDA has been the partner of the UNDP in the GOP-UNDP Governance Portfolio on the wider application of HRBA in government and civil society since 2004, it has failed to take the lead in applying the approach more vigorously. It is only now that the Governance Programme, under the NEDA's charge is taking steps to steer the Programme towards the country's compliance with international human rights treaties and institutionalizing human rights principles in governance institutions and processes as provided in Administrative Order Nos. 163 and 249. While development assistance from UNDP was ever present for the past six years, NEDA only started complying with the issuance of these two administrative orders from the President.

Pursuant to AO No. 249, NEDA will be implementing a series of capacity development interventions to enable it to effectively mainstream the human rights- based approach (HRBA) in the 2010-2016 MTPDP and other development policies and programs. It reiterated that under Administrative Order No. 163, the National Economic and Development Authority (NEDA) was designated as the lead agency in coordinating compliance with the International Covenant on Economic, Social and Cultural Rights (ICESCR).

Administrative Order No. 249 was issued to further strengthen government policies, plans and programs for the effective promotion and protection of human rights. The same AO directs NEDA to ensure that the principles of rights-based approach (RBA) are integrated, reflected and defined in the formulation of the country's development policies, plans, and programs. A series of activities to capacitate NEDA on HRBA is currently being proposed. These include (a) creation and/or modification of existing, and institutionalization of the use of instruments/materials for mainstreaming RBA into plans, programs and activities; (b) conduct of training/workshop on RBA which shall focus on the use of RBA and its accompanying tools and instruments; and (c) training of RBA trainers.

The promise of these efforts of the NEDA would now depend on the thrusts and priorities of the new presidential administration come July 2010. While it is true that these two administrative orders would remain enforce until repealed or revoked, the commitment of the NEDA to sustain its commitment to HRBA remains to be seen. To date, not much resources are poured in by the government to support the two administrative orders. NEDA's support to HRBA remains to be UNDP driven through the latter's technical and funding assistance.

3. Other Development Partners

Two important development partners contributed their contrary views, comments and recommendations, namely the European Union and Asia Foundation.

a) European Union- Human Rights and Gender Section

A key weakness of the various actions documented is the tendency to 'projectise' or compartmentalise human rights response into short-term projects. There is a clear absence of a national level indicators or strategy for human rights similar to the Philippine MDG Action Plan, to guide and measure progress towards international commitments and obligations. **While** this comment appears logical, it may not be the proper approach to implement HRBA in the country. HRBA could not be patterned with MDG international commitments that have specific deliverable indicators. HRBA is truly an approach that could be implemented at various levels of projects, activities and tasks.

b) Asia Foundation

The Asia Foundation gave more detailed comments and recommendations, which are worth contemplating on. It affirmed that the indicators generated by and the process employed in carrying out the HRBA well demonstrates the application of approach. It is thus imperative to document the tedious yet worthwhile application of HRBA especially in two cases involving the legal empowerment of the poor and the media-community for local development. As observed in one case the usual difficulty with working with local governments is that when a new administration comes in, efforts of the previous leadership are changed or even put to naught. This project would have greater sustainability if there were more substantive participation of local government officials who are not occupying elective posts. The experiences as demonstrated in the cases reveal the challenges in introducing HRBA on an inter-agency level. The leveling off on HRBA and mapping of responsibilities are good starting points for the project. Since the project is yet to be completed it may be good to gauge the impact of the applying the HRBA at the close of the project implementation. The lack of training and materials are

common issues in mainstreaming human rights. Training of trainers and focal persons (as well as continued guidance and coaching); development of handy tools and instruments and proper dissemination, documentation of best practices will undeniably be useful in this aspect. It may also be good to learn lessons on gender mainstreaming which can apply to incorporating a rights-based approach to various projects. On sustaining the application and replication of the HRBA, the Asia Foundation recommended that one would be to identify champions within agencies at both top- and mid-level positions. Mid-level career champions often stay on longer in an institution and are the ones who climb up the career ladder to eventually become heads of offices. Constituency support outside the agency is also crucial. As mentioned in previous comments, documentation of experiences and processes and translating these into tools for future reference will be useful for replication. Institutionalizing the process through manuals and official directives will also be important. In addition, as practitioner of the approach, one concrete contribution to its sustainability is through starting and operationalizing an active consciousness of applying HRBA in different processes and interventions, particularly in capacity-building activities where champions and focal persons can be trained on the rights-based approach. Another is by supporting efforts that will institutionalize the use of HRBA especially in government.

All these comments and recommendations of Asia Foundation are already being undertaken except that may be there is a need to marshal the support of other development partners. UNDP has limited resources to sustain its support to HRBA. Other development partners are more in a position to the resource-intensive requirements of HRBA training, research and information materials development and dissemination.

D. Conclusions

Following the conceptual and operational frameworks, the study concludes that HRBA is “a way of thinking and a way of doing” to facilitate the implementation of the international human rights treaties. Based on the results of this study, HRBA is a “softer” approach to ensure compliance with State obligations under the treaties. . It is not an independent approach but simply mainstreams human rights perspective and standards into existing development and governance processes both as criteria and method itself. But the mainstreaming process as it appears is not really that simple due to intricacies and nuances experienced in the process.

The intricacies lie in the complexities involved in the international human rights framework. There are many treaties to look at to be able to mainstream human rights. While the human rights standards in the treaties are universal in character, the full coverage of human rights framework represents a full-embodiment of instruments, which are difficult to manage operationally. For instance, in order to fully cover the standards

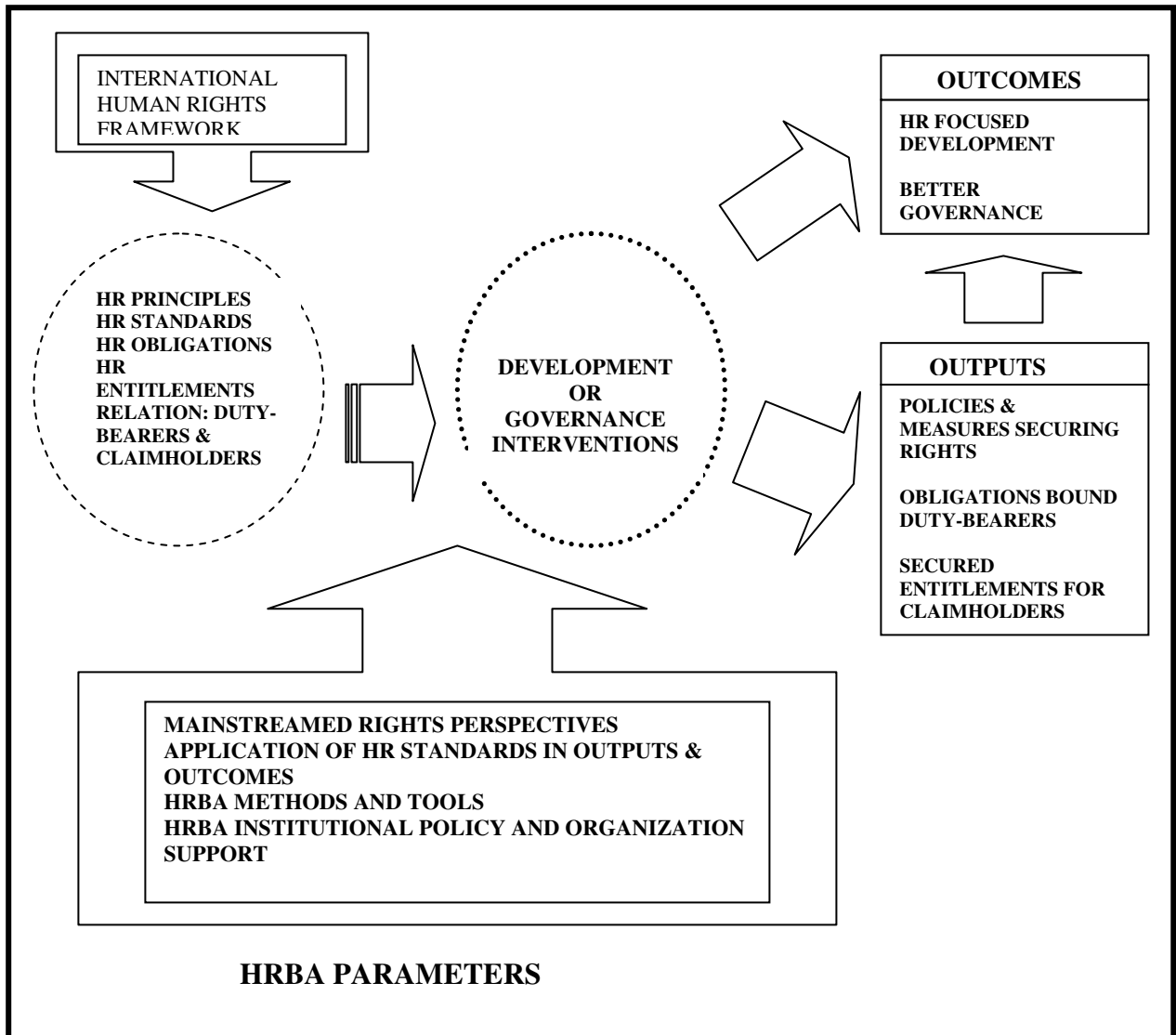
of every right, one has to refer to a lot of international human rights documents, which appear heavy reading and also, involve a lot of technicalities.

While the nuances rest in the very detailed process of understanding, clarifying and operationalizing the concepts of obligations and entitlements found in every human rights standard defined in each of the treaties. Even the most human rights oriented government or non-government organization found difficulty understanding and applying the international standards of human rights. It takes practice to specialize and master HRBA. It takes political will to always refer to the international human rights treaties in terms of doing rights-based development and governance interventions.

But beyond these intricacies and nuances is a sense of reward and fulfillment of being able to add human rights dimension into the development and governance objectives even at the project level. This should be regarded more than a psyche reward. Inputting human rights dimension into development and governance interventions require huge resources as the approach demands more than the basic human needs. The approach demands higher universal standards for human dignity.

Despite all the limitations and constraints of this study, the empirical findings and observations as earlier presented under the summary of the results of the instrumental case analysis and collective case analysis, support and prove the validity of the conceptual framework of this study with some enhancements as reconfigured below (Original Conceptual Framework in Chapter 1):

FIGURE 7 – ENHANCED CONCEPTUAL FRAMEWORK



Source: Original Design

As shown in the above figure, the original conceptual framework as presented in Chapter 1 holds with some refinements as theorized from the results of the study. The framework introduces a set of HRBA parameters, which is the major contribution of the study. As borne by the study, the combined use of the parameters as shown in the enhanced conceptual framework largely determines the efficacy of its use. This set of parameters consists of the following:

- a) Mainstreamed Human Rights Perspectives
- b) Application of HR Standards in Project Outputs and Outcomes
- c) HRBA methods and Tools
- d) HRBA Institutional Policy and Support

These parameters represent the operationalization of the international human rights framework, which helped established that HRBA as a process:

- a) Adds the practice of fundamental human rights principles in development and governance interventions;
- b) Adds force to the implementation of human rights standards through implementation of state obligations and human entitlements that serve to strengthen accountability and empowerment;
- c) Adds value as method and tool that enhance existing processes of development or governance projects or initiatives;
- d) Adds to evidence-based generation of HRBA success Indicators through the actual outputs and outcomes

The critical enablers are the institutional policy & support, as well as, the methods and tools for HRBA. These are critical HRBA ingredients that would determine the level of efficacy in the use of the approach.

While most literature on HRBA point to the fact that the success indicators of the approach are empirically based on outcomes, the above conceptual framework postulates that the efficacy of the use of HRBA starts from the output level of development and governance interventions. Physical outputs of HRBA would warrant the desired outcome of the approach. These physical outputs are in terms of rights-based policies and measures that would serve as enabling environment for achievement of outcomes on HRBA such as enjoyment of larger freedoms and rights.

HRBA complements and not supplants the compliance approach at two fronts: in mainstreaming human rights principles, standards, obligations and entitlements in development and governance processes utilized for the projects. It capacitates the three domains of governance such as the government, private sector and civil society. This complementing approach was evident in development and governance processes such as policy formulation, local governance, indicators-setting, community mobilization, managing organizational change and national and local action planning.

As was proven in the study, HRBA is basically a mainstreaming process that is made to work through the use of specific methods and tools such as the matching of development needs with specific rights, stakeholders' analysis for both duty-bearers and claimholders, assessment of capacities of stakeholders based on obligations and entitlements. HRBA brings into the development and governance processes human rights perspective in defining needs and issues, accountability based on obligations under the international human rights treaties and people empowerment based on securing rights entitlements, also as provided under the treaties. However, this is easily said than done. As claimed by most of the proponents of the project cases, they found difficulties operationalizing human rights concepts, principles and norms. They always needed some guide through some materials, training and direct coaching.

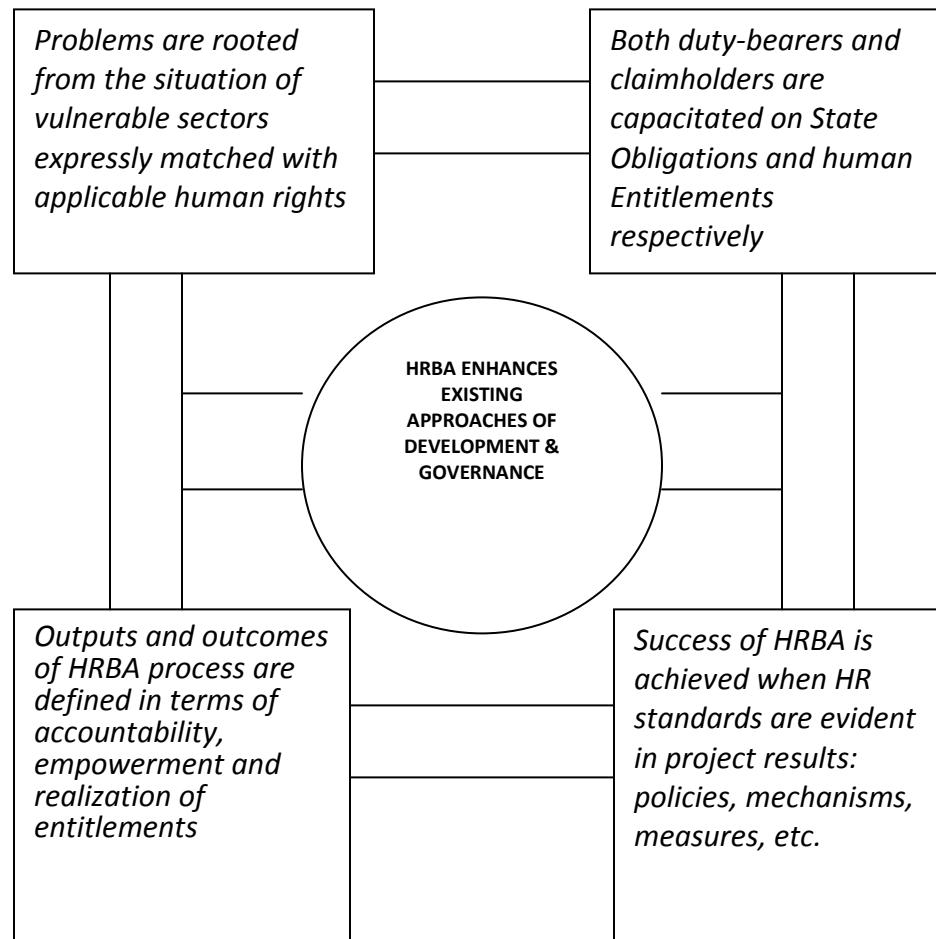
The effectiveness of HRBA is gauged mainly on the level or degree of operationalization of the HRBA parameters. The *core parameters* point directly to the promotion, operationalization and practice of human rights principles, standards and concepts of obligations and entitlements in the content and processes of development or governance outputs and outcomes. The other sets of parameters point to the following: methods and tools used to link needs to rights, accountability to obligations and entitlements to empowerment; and those that point to the institutional policy and support that the proponent of HRBA extend for its operationalization in order to make it sustainable and replicable. These parameters include policy directives, organization, training and information materials.

The effectiveness of HRBA begins at the output level and not at the outcome level. Outputs in the context of HRBA refer to policies, measures, mechanisms, which carry human right orientation both in the process of formulating them and in producing the actual outputs. Only rights-based outputs such as those produced by the six project cases could contribute to the outcomes of attaining rights-focused development and good governance that would warrant improved quality of life for the target sectors of society. Hence, the effectiveness of the outputs and outcomes could be gauged through the indicators that were generated under each project case.

Below is an enhanced Operational Definition of HRBA (Original Operational Definition on Chapter 1), as applied in the development of the six (6) case studies, which presupposes that this could be the same operational definition and framework that could be applied for the wider application of the HRBA in project, programs, planning and all other processes of agencies and other organizations.

As shown in the figure, HRBA is demystified. It is tested in the study that HRBA is not a super-imposition over existing approaches in development and governance. It is used as a framework, lens and tool to understand development and governance issues in human rights perspective. The human rights perspective is used to humanize the level of human rights deprivation of different sectors of society primarily the vulnerable and disadvantage sectors. The approach also points to the fact that every human rights condition that reflect human rights deprivation has a duty-bearer and a claimholder based on international human rights framework of human rights obligations and entitlements. HRBA would only succeed if such human rights standards found in international treaties are operationalized and applied in development and governance measures. The outcomes and outputs of HRBA should point essentially to two things: accountable duty-bearers and empowered vulnerable and disadvantaged sectors. HRBA is not successful without the interplay of both duty-bearers and claimholders, which contribute largely to the defining of the different dimensions of development and domains of governance.

FIGURE 8- ENHANCED OPERATIONAL DEFINITION OF HRBA



Source: Original Design

In the context of the reconfigured conceptual framework of the study and operational definition of HRBA, are the following conclusions linked to the objectives of the study:

1. HRBA may be operationalized, practiced and promoted differently, using project specific HRBA design but effectiveness of the use of the approach is another matter

Gauging from the analysis of the six (6) project cases, the stakeholders of the project demonstrated different understanding of HRBA as reflected in the varying degrees to which the approach was applied in the projects. As initially established in the study framework there is a critical need to de-mystify human rights and one concrete way is through HRBA, which the project cases had, to some extent, successfully achieved. But

while HRBA is a proven way to de-mystify human rights, its application would never yield to the same level of results in terms of the quality of outputs and outcomes. The difference lies primarily in the enabling skills and proficiency of the HRBA practitioners and level of awareness of the participating governance stakeholders to collaboratively implement human rights principles and standards. Since the approach is a way of thinking and doing, its continuous use would eventually improve its practice. Its promotion could be done through the use of usual interventions like trainings and consultations, conferences, studies, advocacies, communication strategies, community organizations, network building, coaching and others, which are normally applied in development and governance processes. However its practice as a method requires the use and polishing of enabling tools that would allow the mainstreaming of human rights to seep in. As the approach is variable depending on the locus of its application, the extent and degree to which the approach is practiced needs oversight monitoring and quality control.

2. There is no single approach to HRBA, only modalities of the approach

This study has produced six (6) modalities of HRBA practice. There could be more that could be produced except that there is truly a dearth of documentation of good examples of the approach. However, as attested by the six (6) sample project cases, there could be many other projects within or outside the Governance Portfolio that may have very rich experiences on the practice of HRBA. For instance, the CHRP as early as 2003 up to present had been conducting HRBA Orientation and Training both at the national and regional levels. It could be assumed therefore, that participants of these orientation-training applied the approach but did not have the opportunities and resources to document their experiences due to absence of UNDP support.

Also as drawn from the feedback gathered from the project proponents, the lack of information and education materials on HRBA impedes the wider application of the approach. The development of HRBA materials should provide testimonies of good and best practices that would show how benefits and contributions could be derived from the use of the approach in different development and governance interventions that would redound to synergistic outcomes. As HRBA is basically experiential, more empirical studies should be done to propagate its use as method and tool in development and governance.

3. The success of HRBA is achieved when policies, programs and other interventions carry human rights orientation both at the level of outputs and outcomes.

HRBA success indicators could be founded on the level and extent to which changes in the situation and condition of a select group were influenced by the approach. HRBA success indicators could thus be categorized at three levels: process - human rights focused-empowerment of government organizations and civil society groups for fulfillment of human rights obligations and human rights entitlements; output - rights-based orientation, content and implementation of development or governance policies,

programs, projects and activities; outcome – rights-based transformation of institutional framework, culture, systems and processes of development and governance institutions and organizations; and impact – rights-based progressive changes in the quality of life of individuals and communities, preferably of the vulnerable and disadvantaged groups. As illustrated by the projects, the success indicators were yet at output level and to a limited extent, to the outcome level, in terms of significant transformation of way of doing things by the governance actors, namely: government agencies and selected civil society groups. Both the outcome and impact levels of results of HRBA are long shot as it would need to show changes in quality of life of the various rights-based policies, programs and other measures that were generated by HRBA modalities produced by the study.

4. HRBA could be both sustainable and replicable in the spheres of both development and governance.

As exemplified in the project cases, the implementation of the Human Rights Treaties could be implemented through the use of the HRBA. The process of HRBA, however, would require the “softening” of the established ways of doing things particularly in the government especially, in the aspect of policy formulation, services delivery and program and project implementation.

HRBA practice in the Philippines has a long way to go. Its purposes and benefits are truly recognized by both government and civil society organizations doing development and governance work. However, the implementation of the HRBA is protracted. There ought to be an assertion of political will to fully maximize its contributions and benefits especially in helping achieve more equitable and democratized access to opportunities and assets across the different strata of the Philippine society, with greater impact on the poor, vulnerable and disadvantaged.

The fact that the Philippines is a signatory to the eight (8) core human rights treaties should stand as sufficient basis for government to be able to assert its political will to fulfill its obligations under the International human rights community and the Family of Nations. The Philippine government having signed these should be able to periodically assess its level of compliance in national and local policies, programs, projects, mechanisms and remedies to improve conditions of both development and governance. , Government political will to adopt HRBA integral to its policy commitment for policy making, development programming, fiscal administration and services delivery, would be a big step to ascertain the sustainability of the approach both at the national and local levels.

As regards its replicability, this is only possible if all HRBA practitioners would document their experiences by incorporating the resources needed for documentation as part of the project cost.

5. HRBA has added value as a method and tools to achieve good governance

To reiterate, HRBA makes possible the mainstreaming of the human rights elements as objective criteria and standards for development. However, what will facilitate and enhance its added value to development is the polishing of the approach as a method and tool for governance. As a method and tool it helps improve the functioning and processes of government agencies through the adoption of human rights as the criteria and standards for development. HRBA makes the participation of different governance stakeholders participatory, which is in keeping with the principle of democratic governance. The approach also empowers people to hold public institutions and agencies accountable. The resulting empowerment is inclusive and shows a pattern of social interactions, which is an imperative in governance. The overall process catalyzed by the approach become transparent and responsive as the methods and tools used by the approach point directly with high degree of transparency, to the accountabilities, duties and responsibilities of both the duty-bearers and claimholders, who are generically referred to also as the governance actors. When public institutions function effectively with the inclusive participation of the people especially the vulnerable and marginalized sectors, poverty and powerlessness, which are twin concerns of both development and governance, could be overcome.

In more specific terms HRBA could do a lot for governance through the mainstreaming of all its core elements, as observed in the different cases. Among others, these are: a) people to see openly into the activities of government; b) Full, free and public disclosure of decision, policies and processes of government; c) access to information especially in rule making activity of government; d) people can be made to voluntarily participate and contributor in informed decision making process at all level of economic, social, and political decision making; e) public institutions and the people could collaborate in enacting laws that uphold inherent dignity of person and the enjoyment, exercise and fulfillment of human rights; and f) fairness, justice and impartiality in providing mechanisms and opportunities for the enjoyment of rights that should be addressed in the development plans at all levels of governance of the country. When these characteristics of the HRBA are observable as true in the cases, there is a greater chance of producing policies, programs and other interventions and initiatives that promote and enhance respect and protection of human rights in the country.

E. Future Directions and Replicability

HRBA has a long way to go in serving as an effective method and tool in both development and governance. As a mainstreaming method for development, it enables governance actors to apply the human rights principles and standards as criteria for pursuing development. In terms of governance, it serves as an effective tool for enhancing accountability and empowerment with both legal force and natural dynamics among governance actors. The massive use of the approach both as a framework and tool could help further shape the history of development and governance in the country, as the approach offers more direct effects to improving the plight of the vulnerable sectors by enabling them and the accountable government institution to secure human rights.

On the role of HRBA in development, legitimizing the use of HRBA both at the national and local levels through passage of law in Congress and sustaining the implementation of the relevant presidential directives and local ordinances produced in the course of implementing the six (6) projects, would have beneficial contributions to institutionalizing the approach both in the short run and long run. The HRBA provides perspectives and tools for the development of a culture of human rights among duty-bearers in government and claimholders among organizations and groups that constitute the civil society.

On its role to achieving good governance, HRBA capacity building for both the duty-bearers and claimholders is the only sure route towards building up on the gains of these six (6) project cases of HRBA. Another complementary route would be the conduct of continuous documentation and research into the gains of applying the approach, as a way to encourage more users to confidently apply the approach. The approach ascertains the building up of a human rights culture, which is better than enforcing the obligations to the letter. Moreover the legitimizing of the use of the HRBA in government planning both at the national and LGU level as shared by most of the projects, would certainly provide an objective guide and process to improving the pursuit of development and governance in the country. Actors of governance, namely, the government, private sector and civil society, need to be reoriented into the works of human rights as objective and common perspective to attaining meaningful development in the country.

HRBA could be sustained and replicated for purposes of development programming and project planning and implementation. It need not come up with separate national performance targets and indicators like that of the MDGs, as its original purpose is to enhance existing development and governance processes through linking of development needs to relevant rights. There is no problem also if HRBA is operated at the project level in order to support contemporary trends in public action that are more responsive to the development needs of the different sectors of society.

The bottom line is to provide HRBA all the necessary institutional policy support and funding assistance to be able to nurture the gains achieved by different organizations other than those proponents involved in the six cases. A comprehensive programming on HRBA would be necessary to ensure the wider application of the approach both at the national and local level. Programming in this aspect must include key interventions such as continuing training on the approach, development of methods and tools that would work compatibly with development and governance processes and expansion of networks of champions and advocates espousing the use of the approach in the country. Not only the CHRP would significantly figure in this direction of the HRBA. All the PHRC agencies would be playing important roles especially the NEDA and DBM in terms of the overall mainstreaming of HRBA with NEDA's planning support and DBM's fiscal support.

F. Implications in Public Administration and Governance

The results of this study on HRBA pose significant implications both in the practice and discipline of Public Administration and Governance as follows:

1. Practice of public administration and governance

- a) HRBA enhances roles of governance actors in contemporary governance setting

As illustrated by the sample cases, the duty-bearers and claimholders need not clash in a conflict-oriented atmosphere. HRBA served as a unifying framework for the two parties. As human rights standards are inherently the entitlements of the people, both parties tend to agree on them as aspirations and standards to be achieved. Looking at the sample cases, both parties tend to position themselves in a capacitating mode to be able to undertake obligations on the part of the duty-bearers and to be able to actively participate and contribute on the part of the claimholders. HRBA provides a process that determines accountability but not necessarily pointing blame as all sectors are encouraged to involve in the solution of human rights issues and problems.

- b) HRBA enhances accountability of government to govern through implementation of State Obligations under the eight (8) core International Human rights Treaties

The implementation of the various state obligations under the eight (8) International Human Rights Treaties could be facilitated through the application of the HRBA in both developments planning and monitoring of the government. Like for instance, the conduct of a stakeholders analysis vis-a-vis the standard provisions of the treaties could easily establish accountabilities. The Thematic Clusters under Case 6 could very well serve as the starting point for such stakeholders' analysis. However, this should be followed by a comprehensive assessment of the existing institutional capacities of relevant agencies to determine their readiness to facilitate the implementation of the international human rights standards in terms of their mandates, programs, services and resources.

Thereafter, policy reforms should ensue to effect enhancement or strengthening of a legislative framework on human rights that will serve as an enabling policy environment for state compliance.

- c. HRBA requires a perspective and tool for its effective use in development & governance initiatives

In as much as the implementation of the Treaty rests in government's compliance with specific State Obligations, the issuance of national and local directives/ordinances on HRBA are definitely useful. This is the only way through which the entire government machinery could be oriented on human rights. The application of international human rights principles and standards require the use of optimum level of resources of the government to be truly compliant with its pertinent State obligations, showing progress over time. The most appropriate way to comply with the Treaties would be to mainstream HRBA into the development planning process both at the national and local level and linking the same into the investment planning of the government.

This is one orientation that would require a paradigm shift in the way the government view the human resource of the country as human beings endowed with inherent rights and entitled for constant development to achieve full enjoyment of these rights. Thus investing in people following certain international standards in progressive fashion would a sure way to achieve sustainable development and economic growth for the country.

- d) HRBA has added value to the history of development and governance in the country.

Very crucial to the practice of HRBA would be an understanding of the evolving roles of the actors of governance and how the approach will fit into the concept of redefined roles of state, private sector and civil society. The role of the state, the role of private sector and the role of civil society will be best defined in terms of the human rights framework. Crucial to the interplay of these domains of governance is the set of roles of the state in terms of creating a conducive economic environment, enhancing the protection of the vulnerable sectors of society, improving government performance, empowering people and democratization of powers and opportunities, decentralization of government, bridging the rich and poor, encouraging social integration, preserving the environment and promoting gender equality.

The HRBA provides this opportunity for the different stakeholders involved in different development and government interventions and undertakings to always consider the “bottom line” on the real reason why plans, programs, projects and institutions exist but ... *“to provide enabling environment and means whereby every one, as human being, could be afforded opportunity to constantly develop in larger enjoyment of rights and freedoms.”*

e) . Contribute to the organization and processes of Public Administration

Government is made more accountable based on human rights obligations under the treaties that the Philippines signed. HRBA enhances the accountabilities and responsibilities of the different organizations and agencies that comprise the public administrative system in the country in terms of human rights obligations under the International Human Rights Treaties. This refers to the improved level of accountability of the government as duty-bearers of human rights obligations and the improved level of participation by claimholders of human rights entitlements in terms of services delivery that would enhance enjoyment of civil and political rights and economic, social and cultural rights.

In terms of process of public administration, the use of HRBA could very well function in national development planning, fiscal planning and agency planning. The use of human rights standards and indicators drawn from the various treaties to which the Philippines is a signatory, could be applied as criteria and standards for analyzing, advocating, assessing ,monitoring and evaluation to determine the level of improvement of the quality of life of the poor, vulnerable and marginalized.

In the operation of the civil service, the full force of government could be oriented into the human rights obligations of the State and entitlements of the people in order for civil service to be more accountable and responsible in rendering public service.

In the legislative processes that are participated in by both the executive and legislative branches at the national level and by the local government units, the HRBA could serve as effective criteria and guide for national legislation and passage of appropriate local ordinances and resolutions.

There are other processes in public administration that could be made more relevant and responsive to the demands of the constituencies to include the electoral process, wherein advocacy of human rights and right to suffrage could prepare the psyche and competence of the public in participating in political exercises like the elections, among others.

f) Implications of the Study on Development Processes

HRBA facilitates the use of human rights as standard criteria for development. As borne by the project cases human rights proved to be useful standards that define the quality of development being pursued by both the duty-bearers and claimholders. The applicability therefore, of human rights as standards for development is the sure path to formulating responsive laws that are pro-poor, developmental and high impact as, it would benefit the greater number of the poor. The HRBA provides the process of looking beyond the achievement of the MDGs by applying the standards and indicators of human rights as exemplified in the

goals. With respect to pertinent standards to protect, promote and fulfill basic rights at different standards of accessibility, affordability, cultural adaptability, quality among others. The direct application of human rights standards on priority issues and concerns under each of the eight (8) International Human Rights Treaties was shone in the study's case on national human rights action planning. Standards are applied from the formulation of development objectives, to identification of indicators, formulation of medium and short-term targets, and identification of specific programs, projects and activities up to the identification of resources and the identification of institutional arrangements between duty-bearers and claimholders to undertake the various initiatives under each of the thematic plan. In other words, human rights standards are properly mainstreamed into this key development planning process involving major services delivery agencies of government

2. Discipline of Public Administration and Governance

The HRBA could be mainstreamed into the discipline of public administration and governance as method and tool. Its core elements, which are based on the International Human Rights Treaties could be taught and mainstreamed into the study of multi-level governance, development planning, public services delivery, civil service management, local governance, among others. On multi-level governance, HRBA may be taught as a method and tool to catalyze the role of international governance to improve quality of life of the people through the UN's promulgations via declarations, covenants, conventions, resolutions and the like, in improving domestic governance through adherence to universal human rights standards. On governance, HRBA could substantially be taught to mainstream its perspectives on roles of the governance actors in courses of national and local governance, citizenship rights in governance, corporate governance. On teaching governance functions specifically, the regulatory one, HRBA perspective could purposively enrich the parameters of good governance. Achieving good governance is a big challenge for the HRBA as a method and a tool of governance. In general terms, HRBA could be an effective tool of public administration and governance in achieving a balance management of development for all sectors of society especially in approaching a better understanding and grasp of the reality of poverty in human rights perspective and making the process of development and governance more accountable, transparent, participatory and responsive, which generally are the foundations of democratic governance. Thus, its institutionalization under this discipline could greatly help in making the approach sustainable and replicable in order to fully serve its role in both development and governance in the country.

In specific terms the mainstreaming of HRBA in the discipline could work faster in the context of the following parallel perspectives of governance and HRBA. HRBA could work compatibly with the historical emergence of the concept of governance. Governance, which was made to respond to pressing realities of the 1970s, did not bear any revolutionary character but a developmental one that helped fragmented,

disarticulated and weak states in managing the democratic polity. HRBA emerged too as a response to the phenomenon of global poverty and the marginalization of the human rights aspirations of the vulnerable and disadvantaged sectors of society. HRBA works on plurality, inclusiveness and networks of organizations, which run parallel as to how governance is managed. HRBA does not bank purely on government. It defines the roles of the different governance actors. The approach strengthens the role of government in terms of compliance measures with International human rights treaties but with full regard of the significant roles of the business sector and civil society in public policy making, programming and implementation of development initiatives that would help improve the plight of the constituencies. Governance speaks of coordination, integration and capacity building on leadership and managerial roles and actions. HRBA could further enhance capacity building of governance actors with the use of human rights principles and standards.

Governance as a new paradigm for public problem solving problems is very much in consonance with HRBA, which is employed as an approach to community problem solving through mobilization of organizations and networks of vulnerable and disadvantaged sectors whose rights are violated and or deprived. The social interactions that occur in both the processes of governance and HRBA could be intermingled. This is done through the application of the HRBA methods and tools within the processes of governance, e.g. stakeholders' analysis, problem analysis, planning, implementation, monitoring and evaluation using human rights perspectives, principles and standards. These are effective tools that enhance the trend in governance that has made a big shift in public action from agency to program level in order to be more responsive to the demands and needs of the people.

Ultimately, HRBA could further enhance the governance shift “from command and control to negotiation and persuasion.” The approach could, in fact, provide a universal framework and method to which all governance actors could work together progressively in terms of achieving human rights aspirations and standards that befit human dignity for all.

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¹¹⁰ General Comment 13 (6a-6d) requiring that “education in all its forms and at all levels shall exhibit the following interrelated and essential features: availability, accessibility (non-discrimination, physical accessibility, economic accessibility), acceptability and adaptability.

¹¹¹ Article 2 of CEDAW states that “States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women...”

¹¹² Article 11 of CEDAW states that “States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:...”

¹¹³ article 10 of CEDAW states that “States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women....”

¹¹⁴ Article 3 of the CEDAW states that “State parties shall take in all, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women...”

¹¹⁵ Article 6 (1) of the CRC states that State parties recognize that every child has the inherent right to life and that (2) State parties shall ensure to the maximum extent possible the survival and development of the child.

¹¹⁶ Article 12 (1) of the CRC states that “The state parties recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and (2) (a) the steps to be taken by the State parties to achieve the full realization of this right to include among others the provision for the reduction of all stillbirth-rate and of infant mortality and for the health development of the child.

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¹¹⁹ Article 12 (2) provides that ‘Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy,

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¹²¹ Article 14 (2b & 2c) provides that “....shall ensure to such women the right: to have access to adequate health care facilities, including information, counselling and services in family planning and (c) to benefit directly from social security programmes;

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¹⁵⁴ *There are five pillars to the justice system: community,police, prosecution, courts/judiciary, and penology*

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¹⁵⁸

¹⁵⁹ *Include (i) vendors, whether with stalls or without including ambulant vendors, street vendors or those plying their goods and trades in streets and those engaged in sari-sari stores which conform with the total asset value requirements as mentioned in Section 4 (f) of this Act; (ii) marginalized farmers; (iii) marginalized fisher folks; (iv) home-based workers who are independent producers of goods or services and whose total asset value conforms with that mentioned in Section 4 (f) of this Act; (v) small transport such as but not limited to non-corporate operators of small marine boat or vessel for transport, tricycle, pedicab, habal-habal, calesa, kuliglig or “trolley” whose total asset value conform with the requirement as mentioned in Section 4 (f) of this Act*

¹⁶⁰ *(i) on call domestic workers; (ii) barbers, manicurists or pedicurists; (iii) drivers of tricycle, pedicab, habal-habal, kalesa, kuliglig, “trolley” or small marine vessel/boat; (iv) “barkers”, fare collectors, dispatchers and other workers who share in the income of the non-corporate operators; (v) welders and mechanics; (vi) non-corporate constructions workers such as but not limited to carpenters, plumbers, electrician, mason or house painters; (vii) television, radio and air condition technicians*

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Appendices

- A. List Project Outputs and Documents Reviewed for the Case Studies
- B. Summary of Responses of ESCR, Asia on Case 1
- C. Summary of Responses of CHRP 1 and Barangay Participants on Case 2
- D. Summary of Responses of CHRP- RTF on Case 3
- E. Summary of Responses of DBM on Case 4
- F. Summary of Responses of CCJD on Case 5
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- H. Summary of Feedback Report on the six (6) Cases from the CHRP as Implementing Partner
- I. Summary of Feedback Report from other HRBA Practitioners
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- K. Guide Questions for the Records Review
- L. Questionnaire on User Satisfaction Rating Sheet
- M. Feedback form on Comments & Recommendations of CHRP as the Implementing Partner of the Projects under the Governance Portfolio, and other HRBA Practitioners

**List Project Outputs Reviewed
For the Case Studies**

Case 1 - Legal Empowerment of the Poor by ESCR, Asia

1. Draft Magna Carta for the Informal Sector
2. The Way Forward: A Policy Resource Book on Legal Empowerment of the Poor in the Philippines
3. Beyond Informality, Claiming Dignity: A Training Course for Capability Building of Leaders and members of Informal Sector Organizations
4. Buhay Informal: Wakasan ang Siglo ng Isang Kahig Isang Tuka
5. Legal Empowerment: Kalagin ang Bigkis ng Kahirapan
6. Karapatan sa Pagmamayari: Karapatan ng Maralita
7. Summary of Findings and Recommendation

Case 2 - Developing Sn. Fernando City as a Resource City for Best practices in Rights-Based MDG Localization

1. Barangay Rights-Based MDG Localization Plans of 49 Barangays
2. Rights-Based MDG Localization Planning for 3 Pilot Barangays
3. Training Programs and Kits
4. Printed Manual on the Project
5. Proceedings of the Joint Meeting of the City Local Development Council and Human Rights Steering Committee
6. Proceedings of the MDG Project Partners' meeting

Case 3 – Right to Food Project by the CHRP Central Office

1. Rights-Based Directory Of Partners On The Right To Food
2. Analysis of the Performance Indicators on the Right to Food
3. Bases Of Classification Of The Department Of Agrarian Reform
4. Bases of Classification for State Obligations on the Right to Food- Department of Agriculture
5. Bases of Classification for State Obligations on the Right to Food - Department of Agriculture
6. Comments From The National Economic Development Authority (Neda)

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7. Levels Of State Obligation On The Right To Food In Relation To The Bureau Of Trade And Consumer Protection (Btrcp), Department Of Trade And Industry (Dti)

Case 4 - Implementing E.O. 366: A Practical Guide for Managing the Change Processes of the Rationalization Program by the Department of Budget and Management

1. Project Outcome Evaluation
2. Implementing E.O. 366 – A Practical Guide for Managing the Change processes of the Rationalization Program

Case 5 Media Community Action on Mainstreaming Rights-Based Approaches at the Local level

Case 6 - National Human Rights Action Planning by PHRC

1. Book 1 – Handbook on the NHRAP
2. Book 2 - Guidelines for the Conduct of Public Consultations
3. Book 3 – Guidelines for the Conduct of Baseline Study
4. Book 4 - Tracking Guide for the Application of HRBA in the NHRAP
5. Chapter 1 General Framework
6. Chapter 2 Thematic Plan - ICCPR
7. Chapter 3 Thematic Plan -ICESCR
8. Chapter 4 Thematic Plan –CAT
9. Chapter 5 Thematic Plan - CRC
10. Chapter 6 Thematic Plan- CEDAW
11. Chapter 7 Thematic Plan -CMW
12. Chapter 8 Thematic Plan CERD
13. Chapter 9 Thematic Plan - CRPD
14. Workshop Cum Consultation on Rights-Based Approach for the NHRAP
15. Area Consultation Plan and program

USER SATISFACTION RATING SHEET

Summary of Responses from ESCR,, Asia – Case 1

What made it easy for you to apply the HRBA in your thematic planning?

1. The application of the HRBA is easy because, first, it is intrinsic or an inherent mandate of a human rights organization likes ESCR-Asia.
2. The understanding of what HRBA, is a lot easier to an HR entity than to an NGO or any entity not having the rights mandate.

What difficulties did you encounter in applying the HRBA in your thematic planning?

1. HRBA is also an ‘expensive’ approach.
2. Employing the “bottom-up” approach, ensuring participation, gender balance, discrimination, etc. do not only require skill, time but also resources.
3. ESCR-Asia has to do an island-hopping consultation to ensure that the cultural nuances in drafting the proposed bill will be considered.
4. No one NGO, even if the mandate is rights-motivated, can’t claim monopoly to the correctness of the application of HRBA.

What is the added value of the HRBA to your thematic planning?

1. The added-value is in ensuring that the planning is validated from the ground;
2. LEP Phase 2 was a continuation of Phase One and merited the consultation of various informal sector groups;
3. LEP Phase 3 project components were presented to the partners including getting their critique;
4. It is easy to plan themes but emanating it from the partners/constituents is difficult;
5. HRBA also builds mutual goodwill among the funder-donor, the implementor and the field partners; and
6. HRBA also enfleshes a principle in the Right to Development Declaration that “...that the human person is the subject, participant and beneficiary of development..”.

What are your suggestions to ensure the effective use of HRBA?

1. Process documentation:
2. Faithful employment of at least the following principles: participation, gender balance, non-discrimination, budget allocation for validation, at least two-island consultation if project is nationwide;

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3. Translation to Filipino or the equivalent language any English-driven/dominated projects; and
 4. An orientation of what HRBA mean specially to the team implementing a project.

USER SATISFACTION RATING SHEET

Summary of Responses from CHRP Region 1 Case 2
(Respondents: Proponent and 10% Of the 49 barangays that participated
In the local planning)

What made it easy for you to apply the HRBA in your local planning?

1. The support of LGU themselves
 2. Inclusion of HRBA in RDC thru resolution enjoining all LGUs, RLAs and other Agencies, Institutions to apply HRBA in their planning/programs/policies
- Consistent lobbying of HRBA by CHR Regional Office
3. Proper coordination between and among duty-holders as well as monitoring of its implementation, Claimholders are well informed of the benefits
 4. Training and education constituents are receptive to the basic rights of the people in the barangay. Contributions from prominent families in the barangay to the fulfillment of plans
 5. Familiarity with human rights of individuals
 6. Enough budget, support of the council and participation of the community
 7. Information on human rights and how it works to improve human development

What difficulties did you encounter in applying the HRBA in your local planning?

1. Lack of orientation on HRBA
2. Lack of support from central office specially funding
3. Misimpression that HRBA is new approach difficult to implement
4. Inadequate information dissemination on various assistance available and or are in planning
5. Misunderstanding due to different ideas
6. If your plan does not address the actual needs of the constituents
7. Lack of knowledge and information regarding human rights

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8. Lack of human rights awareness of duty-bearers and claimholders

What is the added value of the HRBA to your local planning?

1. More avenues for local legislation
2. Inclusion of outcomes as an added dimension in monitoring
3. Well-informed claimholders and duty-bound stakeholders responsible collaborators including constituents
4. Client satisfaction is easily attained
5. Inclusion of human rights in local planning
6. Understanding of human rights obligations of the government that will resolve community problems

What are your suggestions to ensure the effective use of HRBA in the government?

1. For other regions to lobby HRBA at the RDC Congress to pass a law re Integrating HRBA into the plans and program of LGUs
2. Strict implementation, full force orientation and dissemination to the public, additional funds to be allocated for the realization of the HRBA in the country.
3. Continued and uninterrupted media blitz on information dissemination of the basic rights of all human beings
4. Need more seminar on human rights duties and responsibilities of the council
5. Local planners should be equipped with full knowledge and information about HRBA localization Teach how government and NGOS can work together under HRBA
6. Government agencies should be well informed and educated on HRBA

User Satisfaction Rating Sheet

Summary of Responses from CHRP RTF Proponent – Case 3

What made it easy for you to apply the HRBA in your project?

1. It was a welcome undertaking as it was viewed as part of my task in our institution's mandate to monitor government compliance with human rights obligations.
2. A directive was issued by the Commission-en-Banc on implement the project using HRBA
3. Support of the UNDP

What difficulties did you encounter in applying the Human Rights Based Approach in your project?

1. It was difficult to sustain Sustainability.
2. Sustaining the method proved to be a gargantuan task since maintaining regular meetings to assess existing indicators and developing what is call 'human rights indicators' entailed a lot more resources and expertise, which the Commission could not readily obtain.
3. Applying the human rights based approach at the time and asking government to pursue this on their own was another matter.

What is the added value of the HRBA to your project?

1. It provided method to human rights work.
2. It breaks down the process, provides guidelines or steps and elucidates the how in HR work. Many HR advocates just know how to go about a human rights critique.
3. Limitations of government entities who view HR with mystique and dismiss knowing human rights as too technical and crafty.

What are your suggestions to ensure the effective use of HRBA in government?

1. To convey the message that HRBA is a perspective not alien to governance but can be regarded as how effective governance can be assessed and measured.
2. Key issuances must be disseminated to government structures such as administrative and/or executive orders, joint undertakings and the engagement in

existing human rights mechanisms such as the treaty reporting process to force the issue that human rights is at the core of public service and its full enjoyment rests on the efficacy of governance.

USER SATISFACTION RATING SHEET
Summary of Responses from DBM – Case 4

A. What made it easy for you to apply the HRBA in your thematic planning?

1. Preparing the Guidebook from the perspective of HRBA was easy.
 2. Change management starts with the premise that what is being managed is the human dimension of change—how people respond, adapt to, or adjust to any change that happens in an organization.
 3. Basically, change management and its principles were seen to have HRBA as a foundation. Once these were set, the content of the Guidebook was relatively easy to decide on and develop.
 4. Orientation to human rights made it easy. Statements like ‘an incumbent in a position that is affected by rationalization has options: to stay in his/her position, transfer to or apply for another position within the same Department or another Department, or retire/resign with an incentive’ already affirms the rights of the individual.
 5. It involved people every step of the way: in defining the needed changes (setting up a coalition or change management team that will advocate for the needed changes, change sponsors, change targets, change agents), communicating the change, and addressing resistance, among others
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B. What difficulties did you encounter in applying the HRBA in your thematic planning?

1. Not much, where the topic was concerned.
 2. Writing a guidebook for a diverse audience presented a difficulty, since there is the notion that not everyone in the bureaucracy may take a discussion on human rights well.
 3. Care was taken not to explicitly talk about human rights in the material, as it might evoke (before any clear understanding of the content and process of rationalization can be made) reactions and complaints against people losing their jobs.
 4. Human rights is always a ticklish issue, and can generate different responses.
 5. So what was done in the Guidebook (and in the process of rationalization, as presented in E.O. 366) was to weave into the material steps, activities and strategies that would ensure the rights of incumbents are protected.
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C. What is the added value of the HRBA to your thematic planning?

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1. It provided additional focus.
 2. HRBA was not a stranger to it, but affirmed its principles and approaches.
 3. Writers were more open to the human rights aspect of every step, strategy, skill, tool that I considered for inclusion in the Guidebook.

D. What are your suggestions to ensure the effective use of HRBA?

1. Continue advocacy.
 2. Examine program/project strategies and see how human rights are addressed there.
 3. Examine how promotion, protection and fulfillment are woven into the processes of programs and projects, in their design and actual implementation.
 4. prescribe indicators for the promotion, protection and fulfillment of human rights.
 5. Wide dissemination of HRBA indicators for programs and projects
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USER SATISFACTION RATING SHEET

Summary of Responses from the CCJD on Case 5

What made it easy for you to apply the HRBA in your thematic planning?

1. The HRBA shaped the content and the activities of public journalism implemented in the community press.
2. It was easily used in planning for stories and special reports and interventions like community meetings, polls and focus group discussion that are part of public journalism initiatives.

What difficulties did you encounter in applying the HRBA in your thematic planning?

1. The awareness of rights, in terms of claiming them at first instance
2. Awareness is generally low among media practitioners and the media audience
3. HRBA materials not easily understandable and explicitly state that in their stories and community activities.

What is the added value of the HRBA to your thematic planning?

1. It is a tool that helped make the editorial output comprehensive and relevant
2. It gives focus to the sectors
3. It identifies their general and specific needs and rights.
4. It can also be applied to any coverage – disaster, election, environment, children and women's stories

What are your suggestions to ensure the effective use of HRBA?

1. Encourage its use among media practitioners;
2. Show examples of excellent stories, media projects;
3. Recognize journalists who use the approach;
4. Provide support/grants to those who will write special reports and community projects.

USER SATISFACTION RATING SHEET

Summary of Responses of PHRC Lead Agencies ¹⁶⁶
(Respondents: NEDA, DOLE, NCDA, DOJ, DILG, CWC-DSWD, NCRFW and NCIP)

E. What made it easy for you to apply the HRBA in your thematic planning?

1. The application of HRBA gave us a specific pattern to follow such as where to start and where to go.
2. The series of orientation/planning workshops primed NCDA for its role as far as CRPD is concerned
3. Attending previous seminars on HRBA
4. Familiarity with the contents of the Conventions
5. The guides are straight forward and readily applicable
6. Orientation-trainings on HRBA plus working knowledge of the instrument being focused
7. Getting the commitment of agencies identified by the NGOs in terms of specific target areas, financial support and statistics and baseline to support the HR issues raised by NGOs
8. Pressing human rights concerns are reflected in the baseline

F. What difficulties did you encounter in applying the HRBA in your thematic planning?

1. Since HRBA is an new method for us, we need still to familiarize ourselves on the process of our formulation of the thematic plans
2. Placing HRBA in practical setting that sometimes they conflict with usual policy of the office
3. Some solutions are beyond the control of the planner-implementor
4. Piecemeal contributions and resource constraints
5. The protracted process of developing the plan. Had there been a one-full week of focused work, the process could have been more direct. Of course the comprehensiveness of the plan could be the serious for the lengthy process
6. Breaking down the programs, projects and activities that reflect the HR obligations of duty-bearers and entitlements of claimholders

G. What is the added value of the HRBA to your thematic planning?

1. It makes a systematic method of formulating plans and programs

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2. It gives a specific starting point on the formulation of the plans and programs
 3. It is most helpful in the formulation of the various programs, activities and projects where these were not included based on a needs perspective but on identified rights of the beneficiaries and claimholders
 4. There seems to be a tug of war between needs and rights and it needs considerable time and effort to reach out to the sector and make them understand for maximum participation
 5. HRBA coordinate all offices plans and programs to be HR oriented
 6. Hidden issues have surfaced, HRBA enlightens parties involved in the planning
 7. Focus on vulnerable sectors and seriousness and urgency of certain issues needing immediate attention
 8. The deliberate and unconditional human rights focus
 9. Focused on the rights of every person
 10. Lack of commitment from government agencies in providing the information needed that would help in formulating the programs, projects and activities
-

H. What are your suggestions to ensure the effective use of HRBA?

1. More info dissemination on the application of HRBA on program of government
2. Popularization and operationalization of HRBA down to the smallest LGU
3. Apply HRBA in all government agencies and programs
4. Enlightenment on the International HR Instruments
5. Priority of NGA as duty-bearer
6. Priority of CSOs as claimholders
7. Tighten agency responsibilities over specific HR instruments to ensure accountability
8. Include HRBA as a key result area especially for law enforcement agencies
9. Sustain and even strengthen coordination function of the HR Committees of with the highest possible leadership support
10. Training for all agencies on the application of HRBAS in planning
11. There should be issuances of circulars issued mandating all the departments, bureaus and institutions to adhere to the principles of HRBA in their respective development plans
12. Improve capacities of government agencies and NGOS on HRBA

Summary of Feedback Report on the six (6) Cases
From the CHRP as Implementing Partner

Comments/Recommendations on the HRBA Project Cases

1. General comments on how HRBA was applied by the project proponent and recommended areas for improvement

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Case 1

A common training framework on the use of HRBA should be formulated and adopted subject to the principal responsibility and accountability of the duty bearers, on one hand and the human rights concerns/issues and vulnerability of the claim holders – to achieve more synergy in HRBA advocacy.

Case 2

HRBA was applied using a participatory framework as duty bearers and claim holders were involved in the process. Monitoring and follow through of commitments by the local government units should be given further emphasis. Institutionalization of HRBA leadership changes should also be considered. despite

Case 3

Introduce to the duty bearers (particularly NEDA) the indicators on the Right to Food developed by the OHCHR-Right to Development Unit for adoption and implementation by the principal government agencies concerned. This will provide the framework for monitoring of government's compliance.

Case 4

A laudable project that should be emulated in all change management processes of the Government. Need to institutionalize the process in oversight government agencies such as the DBM and COA.

Case 5

An effective way of developing and strengthening partnerships on human rights and good governance between and among the LGUs, media and the community. Should be replicated in other selected areas in the three island groups, subject to selection criteria and parameters.

Case 6

As mentioned in the paper, the effective use of HRBA can be improved/maximized if training is undertaken for all national and local governments on human rights norms, standards and obligations and in the application of HRBA in planning, coupled with the development and publication of HRBA information materials. PHRC should prioritize these initiatives, with technical expertise from the CHRP. Ensure maximum participation of CSOs in all the processes from conceptualization to implementation to monitoring.

Assessment and possible adoption/incorporation of the qualitative and quantitative HR indicators on 16 Rights developed by the OHCHR-Right to Development Unit into the NHRAP.

Comments on common issues raised in the six (6) project cases:

a) Lack of training on HRBA

I agree. There is lack of training in HRBA particularly for the duty bearers, thus, there is No common conceptual framework by which monitoring of compliance, progressive Realization of economic, social and cultural rights and accountability are measured.

b) Lack of information materials on HRBA and documentation of HRBA practices

Yes, there is dearth of HRBA information materials. Publication of knowledge products, if any, should be prioritized by CHRP and NEDA with financial support by international funding institutions.

c) Suggestions to sustain or replicate the project

Wholistic presentation to the CHRP, NEDA and concerned government agencies and Claim holders of the projects undertaken so far for information and replication. The next steps should also be agreed upon, to include institutionalization of HRBA and collaborative mechanisms between and among agencies of government.

2. Your role as expert/practitioner in shepherding the wider practice of HRBA by government and civil society

The CHRP should take a more proactive stance as a catalyst in the wider practice of HRBA by government and civil society. It should develop its own expertise from within the organization from the top management to the technical staff members. It should also prioritize trainings of HRBA with the end view of having a core set of HRBA experts from both the government and civil society particularly the academe. It also should shepherd the publication of HRBA knowledge products for dissemination and reference purposes.

Summary of Feedback Report from other HRBA Practitioners

A. NEDA-Governance

The representative of the NEDA Governance Portfolio expressed that, in fairness she could not comment on the six (6) cases since she was not involved in the GOP-UNDP Fostering Democratic Governance Programme at the time these were implemented.

The Governance Programme, under the NEDA's charge is taking steps to steer the Programme towards the country's compliance with international human rights treaties and institutionalizing human rights principles in governance institutions and processes as provided in Administrative Order Nos. 163 and 249.

Pursuant to AO No. 249, NEDA will be implementing a series of capacity development interventions to enable it to effectively mainstream the human rights-based approach (HRBA) in the 2010-2016 MTPDP and other development policies and programs.

B,. EU - Human Rights and Gender Mainstreaming (Operations Section).

A key weakness of the various actions documented is the tendency to 'projectise' or compartmentalize human rights response into short-term projects. There is a clear absence of a national level indicators or strategy for human rights similar to the Philippine MDG Action Plan, to guide and measure progress towards international commitments and obligations.

C. Asia Foundation

Comments/Recommendations on the HRBA Project Cases

3. General comments on how HRBA was applied by the project proponent and recommended areas for improvement

Case 1: The indicators generated and the process employed in carrying out the project well demonstrates the application of HRBA. It is thus imperative to document the tedious

yet worthwhile application of HRBA. I agree with the recommendation that there should be a more detailed documentation of the step-by-step process.

Case 2: The usual difficulty with working with local governments is that when a new administration comes in, efforts of the previous leadership are changed or even put to naught. I think this project would have greater sustainability if there was more substantive participation of local government officials who are not occupying elective posts.

Case 3: This case reveals the challenges in introducing HRBA on an inter-agency level the leveling off on HRBA and mapping of responsibilities are good starting points for the project. Since the project is yet to be completed it may be good to gauge the impact of the applying the HRBA at the close of the project implementation.

Case 4: The application of the HRBA is very relevant in this project, which would expectedly meet some opposition. The provision of alternative opportunities to affected employees is a laudable practical result of the rights-based process. Inasmuch as managing change is a focus of the project, I think the value of participation and inclusivity must be emphasized in preparing the rationalization plan.

Case 5: This is another good example of HRBA application. Like in Case 1, my recommendation relates to the need to document the process for easier replication.

Case 6: The earnest application of the HRBA in the consultations among government and non-government stakeholders is commendable. It may be recommended that the consultation process be made more extensive in terms of scope (not just human rights NGOs) and depth (not just one session consultations). This would definitely require more financial resources and time but this would ensure participation and buy-in for the action plan.

4. Comments on common issues raised in the six (6) project cases:

- a) Lack of training on HRBA
- b) Lack of information materials on HRBA and documentation of HRBA practices

These two (a&b) are common issues in mainstreaming human rights. Training of trainors and focal persons (as well as continued guidance and coaching); development of handy tools and instruments and proper dissemination, documentation of best practices will undeniably be useful in this aspect. It may also be good to learn lessons on gender mainstreaming which can apply to incorporating a rights-based approach to various projects.

- c) Suggestions to sustain or replicate the project

One would be to identify champions within agencies at both top- and mid-level positions. Mid-level career champions often stay on longer in an institution and are the ones who climb up the career ladder to eventually become heads of offices. Constituency support outside the agency is also crucial. As mentioned in previous comments, documentation of experiences and processes and translating these into tools for future reference will be useful for replication. Institutionalizing the process through manuals and official directives will also be important.

5. Your role as expert/practitioner in shepherding the wider practice of HRBA by government and civil society

One is by starting with an active consciousness of applying HRBA in different processes and interventions, particularly in capacity-building activities where champions and focal persons can be trained on the rights-based approach. Another is by supporting efforts that will institutionalize the use of HRBA especially in government.

Design of the Case Study and Collective Case Analysis

A. Overview of the Project Case

This section summarizes the case study through a presentation of the background and purposes of the case study, the project design, a summary of the project gains from using the HRBA, a summary of lessons learned from the application of HRBA and a presentation of the user satisfaction on the use of HRBA in the project.

B. Overview of the Project Proponent

This section describes the mission, key functions, mandate of the proponent in relation to the project and where applicable the organizational structure of the proponent. The discussion on the proponent explains the capacity of the proponent to apply the HRBA in the project.

C. Evidence-Based Application of HRBA in Project Implementation

This section provides the meat and substance of the case study. It elucidates on the unique and exceptional achievements of the project having applied the HRBA, the development of a rights-based constituency and the human rights content of the process undertaken by the proponent and participants of the project to operationalize HRBA.

D. Institutional/Organizational Issues and Constraints

This section describes the various issues and constraints encountered by the proponent in applying the HRBA, how they were able to address or overcome these constraints and their consequences and effects on the project

E. Evidence-Based Application of HRBA in Project Outputs and Outcomes

This section analyzes the added value of the HRBA on the results of the projects at the output level and where applicable, at the outcome level. It examines and scrutinizes the human rights content of either the output or outcome of the project resulting from the application of the HRBA..

F. Evidence-based HRBA Indicators Generated from the Project

This section attempts to present HRBA indicators that were generated from the project that can serve as possible gauge or measure by which to determine the extent and level of application of the HRBA elements.

G. Lessons Learned from the Application of the HRBA

This section explains the various lessons derived from the application of HRBA as far as its contribution to the project itself and to the development or governance objectives of the projects.

H. Conclusion, Future Direction and Replicability

This section attempts to formulate conclusions on the particular modality by which the HRBA was practiced in the project, its sustainability and future plans, as well as potentials for replication.

GUIDE FOR CONTENT ANALYSIS ACROSS CASES

1. Evidence-based proofs that through the HRBA the project case effected a paradigm shift from development needs to rights;
2. Evidence-based proofs that through the HRBA certain human rights standards were applied in the implementation of state obligations and human entitlements as exemplified under the human rights normative content and standards contained in the various human rights treaties;
3. Evidence-based proofs that HRBA caused the application of core and/or fundamental human rights principles that have enhancing influence in the establishment of accountability and overall capacity building of governance actors in the project;
4. Evidence-based proofs that through the HRBA human rights dimension and criteria in the traditional development processes of formulating and developing policies, programs and projects resulted to rights-based outputs and outcomes; and
5. Evidence-based proofs that the use of HRBA tools and such other institutional conditions and pre-conditions made possible the effective use of the approach.

Guide Questions for the Case Records Review

1. What constitutes HRBA as applied in the project?
2. Are the stakeholders aware of HRBA? How did the stakeholders participate in the project?
3. What are the stages of the project? Did the proponent apply HRBA at every stage of the project?
4. How did the proponent apply RBA in the project? What steps did they take?
5. Did the proponent apply any RBA Tool? Was it useful?
6. What is the output of the project and how was it influenced by HRBA?
7. Was the application of HRBA successful? What are some of the indicators to show gauge on how HRBA was applied?
8. What are the conditions that make RBA work in a project?
9. What difficulties did the proponent encounter in applying RBA in the project?
10. What will make HRBA work? If the proponent has another project, will it still use HRBA?
11. Are your stakeholders satisfied with the output of the project?
12. If you did not use RBA, will you be able to generate the same output?
13. What makes the output or outcome rights-based?

Questionnaire on User Satisfaction Rating Sheet

August 4, 2009

Dear

I am concluding the case documentation of six (6) projects that applied the Human Rights-Based Approach (HRBA). One of these, is your project entitled “*Change management Guide in Implementing the Government Reorganization..*”

In this regard, may I request you to kindly ask at least who participated in the preparation of the Guide to answer the questionnaire below. Kindly email the accomplished questionnaires to rclibrea@yahoo.com.ph.

Thank you so much and my warm regards.

Rosette C. Librea

USER SATISFACTION RATING SHEET
(Questionnaire)

What made it easy for you to apply the HRBA in your thematic planning?

What difficulties did you encounter in applying the HRBA in your thematic planning?

What is the added value of the HRBA to your thematic planning?

What are your suggestions to ensure the effective use of HRBA?

Appendix M

**Feedback form on Comments & Recommendations of CHRP
as the Implementing Partner of the Projects under the
Governance Portfolio, and other HRBA Practitioners**

6. General comments on how HRBA was applied by the project proponent and recommended areas for improvement

7. Comments on the issues raised by the project

- a) Lack of training on HRBA

- b) Lack of information materials on HRBA and documentation of HRBA practices

- c) Suggestions to sustain or replicate the project

8. Your role in shepherding the wider practice of HRBA by government and civil society both at the national and regional levels.

TRACKING GUIDE QUESTIONS ON HRBA APPLICATION IN THE NHRAP

a) On Content

- 1) Does it contain a brief introduction of the rational and legal bases of the NHRAP i.e., AO 163, provisions of the Universal Declaration of Human Rights (UDHR) and eight core international human rights treaties (See Indicative Chapter 1, p.1, Guidelines in the Formulation of the NHRAP p.1);
- 2) Does it contain a brief description of the results/commitments of the Philippine government in the recently concluded Universal Periodic Review (UPR), and/or is relevant to the implementation status of the eight core treaties particularly to the concluding observations/ recommendations of specific treaties? (See Indicative Chapter 1);
- 3) Does it contain a brief historical background on the national action planning on human rights specified under the International Human Rights System concurred in Vienna in 1993? (See Indicative Chapter 1);
- 4) Does it contain a brief description of status, evaluation, and results of the first Phil Human Rights Plan: 1995-2002? (See Indicative Chapter 1, p.2);
- 5) Does it contain an intended outcome of the NHRAP with relevant application or customization at the RHRAP level? (NHRAP Indicative Chapter 1, p.3);
- 6) Does it contain the vision of the NHRAP and customized in the RHRAP based on local context? (Indicative Chapter 1, p.3);
- 7) Does the NHRAP adopt specific guiding principles in its formulation, and these guiding principles are contextualized at the RHRAP based on local conditions in consideration of the basic principles of universality of human rights standards, national ownership and empowerment, etc. ? (See Indicative Chapter 1, p. 4);
- 8) Does it briefly describe the Human Rights-Based Approach (HRBA), the approach in the NHRAP/RHRAP Formulation? (See Guidelines for the Formulation of the NHRAP, p. 3 & Indicative Chapter 1 pp. 10-11);

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- 9) Does it have clear and applicable goals for 2009-2014 for the improvement on the level of public consciousness and the human rights situation in the country and/or in the region? (Indicative Chapter 1, p. 3);
 - 10) Do the NHRAP and the RHRAP clearly state their general objectives and effectively customized them based on regional context? (See Indicative Chapter 1, p.4);
 - 11) Do the NHRAP and the RHRAP contain thematic objectives derive from the thematic agenda per treaty in consideration of the UPR and treaty concluding observations/recommendations as well as contextualized the regional/local or condition? (See Indicative Chapter 1, pp. 4-10 & Guidelines for the Formulation of the NHRAP pp 3-8);
 - 12) Are the priority human rights agenda focused on the vulnerable and disadvantaged sectors under each thematic objective appropriately identified in the NHRAP, and in RHRAP include specific provinces/ municipalities/cities/ barangay? (See Guidelines for Formulation of NHRAP, p. 10);
 - 13) Are indicators corresponding to each thematic objectives appropriately identified (in a number that is manageable), and indicate measures to gauge the attainment of each thematic objective at three levels: structural, process and outcome (See NHRAP Formulation Guide NHRAP, p. 12, and list of Illustrative Indicators, pp. 17-21 of HRI/MC/2006/7);
 - 14) Are appropriate branches/agencies/offices of government identified as “accountable entities” for each strategic indicator both at the national and regional/local levels? (See Planning Matrices per Treaty);
 - 15) Is baseline information per strategic treaty indicator identified and defined to establish the state or condition of human rights at the time the NHRAP/RHRAP is to be formulated? And is the baseline information adequate to establish the national and regional human rights situation per thematic objective and per strategic treaty indicator? (See NHRAP Formulation Guides Book 3 –Guidelines for Conduct of Baseline Study, and Planning Matrices by Treaty);
 - 16) Are the national and regional/local targets corresponding to each strategic treaty indicator identified by end of the medium term-2014? Are the medium-term targets annually cascaded showing breakdowns and progression per year (2010, 2011, 2012 and 2013)? See Planning matrices by Treaty and Guidelines for the Formulation of NHRAP p.12);

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- 17) Are the national and regional PPAs, properly identified and defined under each thematic performance targets? Are responsible agencies and CSOs per program, activity, and project properly identified?;
 - 18) Are specific output indicators per program, activity, and project identified and defined showing progression towards the attainment of the strategic treaty indicator?;
 - 19) Do these priorities include both programs and projects with consensus and without consensus in consideration of special concerns of CSOs, which they are strongly committed to do?;
 - 20) Are the identified thematic agenda, objectives, performance targets, priority PPAs properly linked with other existing development plans (e.g. MTPDP) & disadvantaged sectors?;
 - 21) Is there non-duplication or recycling of the plans and commitments under the NHRAP and RHRAP?;
 - 22) Do they have added value in institutionalizing the application of human rights normative content in related plans and commitments? (See Planning Matrices per Treaty and Book 2 – Guidelines for Public Consultations);
 - 23) Is there an existing national and regional program on general public consciousness on human rights and popularization of the international human rights treaties?;
 - 24) Is there a critical assessment of the strengths and weaknesses of the duty-bearers and claimholders on the basis of their assigned accountabilities and responsibilities?;
 - 25) Are appropriate human rights education, training and other capacity building interventions identified to enable each of the assigned duty-bearer and claimholder perform their respective accountabilities and responsibilities under the NHRAP and RHRAP? See Guidelines for the Formulation of NHRAP, Planning Matrix 6 by Treaty and Book 2 – Guidelines for Conduct of Public Consultations);
 - 26) Are resource requirements identified per program, activity, and project under each stage of the NHRAP: preparatory, development, implementation, monitoring, and review? Are possible fund sources i.e., regular agency funds and potential sources from various development partners involved in human rights work properly identified?;

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- 27) Is there an appropriate cascading of programs, activities, and projects in national to regional/local with specific area coverage?;
 - 28) Are different modes/activities for resource mobilization properly identified with detailed target dates?;
 - 29) What coordinative structure and working arrangements are designed to ensure cooperation and collaboration between and among agencies and organizations assigned per program, activity, and project? What directives are issued to mandate the working arrangements of agencies and Coos involved in each of the program, activity and project?;
 - 30) Are the tasks identified under each working arrangement, and time frame and resource requirements specified to ensure cooperation and collaboration among identified agencies and CSOs to undertake each program, activity, and project? (See Guidelines for the Formulation of NHRAP, Planning Matrix 8 by Treaty, and Book 2 – Guidelines for Conduct of Public Consultations);
 - 31) Are monitoring and evaluation plans at the national and regional/local levels designed following the prescribed monitoring and evaluation templates? (See Planning Matrix 9 [NHRAP-PM 006 & 006A];
 - 32) Are interfaces of issues and concerns with crosscutting responses and interventions under relevant treaties and thematic plans in terms of programs, activities, and projects adequately identified and defined in terms of relevant human rights normative contents of interrelated rights involved?;
 - 33) Are there separate and integrated general work plans for the NHRAP and the RHRAP presented in a Gantt Chart showing sequence of activities, their timeframe (start and completion dates), linked to funding resources and sources, and progress tracking?;
 - 34) Is there an overall framework for the NHRAP/RHRAP implementation to include structure and overall plan for coordination and collaboration between and among duty-bearers and claimholders at the national and regional levels?; and
 - 35) Is there an integrated funding scheme for the NHRAP and the RHRAP with identified fund sources and fund delivery target dates?
- b) On Process

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- 1) Is there an orientation conducted for concerned duty-bearers and claimholders at the national regional level?;
 - 2) Is there a proper dissemination of the UPR results and treaties concluding observations/recommendations to concerned duty-bearers and claimholders by the PHRC and treaties lead agencies at the national level and RDC-NEDA at the regional level?;
 - 3) Is there a proper dissemination of background materials on the National Action Planning on Human Rights to relevant duty-bearers and claimholders by the PHRC at the national level and RDC-NEDA in cooperation of CHRP at the regional level?;
 - 4) Is the National Action Planning on Human Rights discussed, adopted, and/or revised by duty-bearers & claimholders during orientations and consultations by the PHRC and its lead agencies at the national level, and by the RDC-NEDA at the local level in cooperation of the CHRP?; (See NHRAP Formulation Guides Book 2 – Guide for Public Consultations);
 - 5) Is this discussed, adopted, and revised by critical duty-bearers and claimholders during orientations and consultations at the national and local levels by PHRC and its lead agencies, and RDC-NEDA? (See NHRAP Formulation Guides Book 2 – Guide for Public Consultations);
 - 6) Is this discussed, adopted, and/or revised during orientations and consultations at the national by the PHRC and its lead agencies and by RDC-NEDA at the local levels?;
 - 7) Is this discussed, adopted, and/or revised in consultation with concerned duty-bearers and claimholders at the national and regional level by PHRC and its lead agencies, and by the RDC-NEDA? (See NHRAP Formulation Guide, Book 2 – Guide for Public Consultations)?;
 - 8) Is there a deliberation on the HRBA conducted by the CHRP and/or the PHRC and its lead agencies, and RDC-NEDA?;
 - 9) Is there a consensus on the goals specified in the NHRAP at the national and regional levels by the thematic cluster and thematic committees at the local level coordinated by the RDC-NEDA? (See NHRAP Formulation Guide, Book 2 – Guide for Public Consultations);
 - 10) Are thorough deliberations undertaken on the priority thematic human rights agenda with concerned duty-bearers and claimholders, and consensus on the statement of thematic objectives resulting from the

deliberation of the thematic clusters' lead agencies at the national level, and RDC members assisted by the NEDA-RO at regional/local level? (See NHRAP Formulation Guides and Book 2 – Guide for Public Consultations);

- 11) Does this come as a result of consultations with the PHRC thematic clusters, and RDC thematic committees in coordination of the NEDA-RO?;
- 12) Do the PHRC thematic clusters' lead agencies and the RDC's thematic committees study the definition of human rights normative content under each treaty in generating and formulating the indicators and identify them at each level (structural, process, and outcome? (See NHRAP Formulation Guides: Book 2 – Guide for Public Consultations, and Book 3- Guidelines for the Conduct of Baseline Studies);
- 13) Do the thematic clusters/thematic committees of the PHRC lead Agencies/RDC (with coordination of the NEDA-RO) conduct consultations with and seek commitments of principal accountable entities on strategic treaty indicators and their deliver? (See NHRAP Formulation Guide Book 2 – Guide for Public Consultations);
- 14) Are affected vulnerable and disadvantaged sectors consulted at the national and regional/local levels by the PHRC lead agencies and RDC-NEDA-RO? (See NHRAP Formulation Guides: Book 2 – Guide for Public Consultations, and Book 3 –Guidelines for Conduct of Baseline Studies, and Planning matrices by Treaty);
- 15) Are the national and regional/local accountable entities identified per indicator properly consulted about the pre-programmed medium term and annual targets? (See Planning matrices by Treaty, and Guidelines for the Formulation of NHRAP, p. 12, and Book 2 – Guide for Public Consultations);
- 16) Do the concerned PHRC lead agency, RDC committees and responsible agency/CSO at the national and regional levels adequately define the programs, activities, and projects assigned to each of them based on human rights normative content and relevant human rights principles?;
- 17) Do the concerned PHRC lead agencies and RDC (through NEDA-RO coordination/assistance) properly consulted the concerned agencies and CSOs on their assigned output indicators that contribute to the attainment of the strategic treaty indicators? (Planning Matrices by Treaty and Book 2 – Guidelines for the Conduct of Public Consultations);

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- 18) Are the agencies responsible for these other development plans, commitments, and initiatives properly consulted in establishing linkages to NHRAP and RHRAP for sustainability and funding commitments? (Planning Matrices per Treaty, and Book 2 – Guidelines for Public Consultations);
 - 19) Are the concerned duty-bearers and claimholders consulted on their capacity building needs i.e., inadequacies in structure, mechanisms, education, training, and other required interventions?;
 - 20) Are these capacity building needs vis-à-vis human rights normative content (pertaining to programs, activities, and projects which the concerned duty-bearers and claimholders have been responsibly assigned to perform) analyzed? (See Guidelines for the Formulation of NHRAP, Planning Matrices by Treaty and Book 2 – Guidelines for Conduct of Public Consultations);
 - 21) How are the CHRP, DepED, CHED, Local School Boards, and LGUs involved in the programs for General Public Consciousness of Human Rights?;
 - 22) Are the duty-bearers and claimholders involved in the identification of resource requirements assigned with specific programs, activities, and projects?;
 - 23) Is there a prior inventory and research on the potential sources of funds especially on those involving development partners?;
 - 24) Are programs, activities, and projects identified in the regular government funds properly and timely incorporated into the budgets of both national agencies and concerned LGUs? (See Guidelines for the Formulation of the NHRAP, and Planning Matrix 8);
 - 25) Are duty-bearers and claimholders adequately consulted on the levels (national, regional, provincial, etc?) of implementation of the identified programs, activities, and projects to be conducted? (Book 2- Guidelines for Conduct of Public Consultations);
 - 26) Are multi-donor fora identified in the resource mobilization plan with date specifications? Will the concerned duty-bearers and claimholders assigned to relevant programs, activities, and projects play a role during the multi-donor foray? (See Planning Matrix 8);
 - 27) Are concerned duty-bearers and claimholders consulted on these working arrangements, and how will they be involved in the setting of tasks and

their completion (resources wise)? (See Guidelines for the Formulation of NHRAP, Planning Matrix 7 by Treaty, and Book 2- Guidelines for Conduct of Public Consultations);

- 28) Are the concerned duty-bearers and claimholders consulted on how they would participate in monitoring and evaluation activities following the Monitoring and Evaluation plan both at the national and regional/local levels? (See Guidelines for Formulation of NHRAP, Planning Matrix 9 [NHRAP-PM 006 & 006A) Book 3 – Guidelines for the Conduct of Baseline Studies;
- 29) Are concerned duty-bearers and claimholders of interrelated rights and collaborative responses and interventions adequately integrated and properly synchronized for effective implementation?;
- 30) Are concerned duty-bearers and claimholders involved in the synchronization of the general plan of work at the national and regional/local levels? (See Book 2 – Guidelines for Public Consultations);
- 31) Are concerned duty-bearers and claimholders involved in the synchronization of the general plan of work at the national and regional/local levels? (See Book 2 – Guidelines for Public Consultations); and
- 32) Are concerned duty-bearers and claimholders involved in the synchronization of the general plan of work at the national and regional/local levels? (See Book 2 – Guidelines for Public Consultations).